Draft Legislation and Regulations to Implement Income Tax Reform Proposals as Announced by the Minister of Finance on December 16, 1987

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Minister of Finance

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Department of Finance
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Draft Legislation to Amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971 and Certain Related Acts

DRAFT LEGISLATION TO AMEND THE INCOME TAX ACT, THE CANADA PENSION PLAN, THE UNEMPLOYMENT INSURANCE ACT, 1971 AND CERTAIN RELATED ACTS

PART I
INCOME TAX ACT

1.(1) All that portion of subparagraph 6(1)(b)(vii) of the Income Tax Act preceding clause (A) thereof is repealed and the following substituted therefor:

> "(vii) allowances (not in excess of reasonable amounts) for travelling expenses received by an employee (other than an employee employed in connection with the selling of property or negotiating of contracts for his employer) from his employer for travelling away from"

(2) Paragraph 6(1)(b) of the said Act is further amended by adding thereto, after subparagraph (ix) thereof, the following:

> "and, for the purposes of subparagraphs (v), (vi) and (vii), an allowance received in the year by the taxpayer for use of a motor vehicle in connection with or in the course of his office or employment shall be deemed to be in excess of a reasonable amount
>
> > (x) where the measurement of the use of the vehicle for the purpose of the allowance is not based solely on the number of kilometres for which the motor vehicle is used in connection with or in the course of his office or employment, or
> >
> > (xi) where the taxpayer both receives an allowance in respect of the use of the motor vehicle in connection with or in the course of his office or employment and is reimbursed in whole or in part for expenses in respect of the same use;"

(3) Subsections 6(2) to (2.2) of the said Act are repealed and the following substituted therefor:

Reasonable standby charge

"(2) For the purposes of paragraph (1)(e), a reasonable standby charge for an automobile for the aggregate number of days (in this subsection referred to as the "total available days") in a taxation year during which the automobile is made available to a taxpayer or to a person related to the taxpayer by the employer of the taxpayer or by a person related to the employer (both of whom are in this subsection referred to as the "employer") shall be deemed to be the amount determined by the formula

$$\frac{A}{B}\,[2\% \text{ of } (C \times D) + \frac{2}{3}\,(E - F)]$$

where

A is the lesser of

(a) the aggregate number of kilometres that the automobile is driven (otherwise than in connection with or in the course of the taxpayer's office or employment) during the total available days, and

(b) the value determined for B for the year under this subsection in respect of the standby charge for the automobile during the total available days

except that the amount determined under paragraph (a) shall be deemed to be equal to the amount determined under paragraph (b) unless

(c) the taxpayer is required by the employer to use the automobile in connection with or in the course of the office or employment, and

(d) all or substantially all of the distance travelled by the automobile in the total available days is in connection with or in the course of the office or employment;

B is the product obtained when 1000 is multiplied by the quotient obtained by dividing the total available days by 30 and, if the quotient so obtained is not a whole number and exceeds one, by rounding it to the nearest whole number or, where that quotient is equidistant from two consecutive whole numbers, by rounding it to the lower thereof;

C is the cost of the automobile to the employer where the employer owns the vehicle at any time in the year;

D is the number obtained by dividing such of the total available days as are days when the employer owns the automobile by 30 and, if the quotient so obtained is not a whole number and it exceeds one, by rounding it to the nearest whole number or, where that quotient is equidistant from two consecutive whole numbers, by rounding it to the lower thereof;

E is the aggregate of all amounts that may reasonably be regarded as having been payable by the employer to a lessor for the purpose of leasing the automobile during such of the total available days as are days when the automobile is leased to the employer; and

F is the part of the amount determined for E that may reasonably be regarded as having been payable to the lessor in respect of all or part of the cost to the lessor of insuring against

(i) loss of, or damage to, the automobile, or

(ii) liability resulting from the use or operation of the automobile.

Automobile salesman

(2.1) Where in a taxation year

(a) a taxpayer was employed principally in selling or leasing automobiles,

(b) an automobile owned by his employer was made available by his employer to him or to a person related to him, and

(c) the employer has acquired one or more automobiles,

the amount that would otherwise be determined under subsection (2) as a reasonable standby charge shall, at the option of the employer, be computed as if

(d) the reference in the formula therein to "2%" were read as a reference to "1 1/2%"; and

(e) the cost to the employer of the automobile were the greater of

(i) the quotient obtained by dividing

(A) the cost to him of all new automobiles acquired by him in the year for sale in the course of his business by

(B) the number of automobiles described in clause (A), and

(ii) the quotient obtained by dividing

(A) the cost to him of all automobiles acquired by him in the year for sale in the course of his business

by

(B) the number of automobiles described in clause (A).

Benefit re auto operation

(2.2) Where

(a) an amount is determined under subparagraph (1)(e)(i) for an automobile in computing the income of a taxpayer for a taxation year,

(b) the automobile is used primarily in the performance of the duties of the taxpayer's office or employment, and

(c) the taxpayer notifies his employer in writing before the end of the year that the amount of the benefit relating to the operation of the automobile for the period in the year during which it was made available is to be determined under this subsection,

the amount of the benefit relating to the operation of the automobile shall, for the purposes of paragraph (1)(a), be deemed to be the amount, if any, by which

(d) one-half of the amount determined for the automobile under subparagraph (1)(e)(i) in respect of the taxpayer for the year

exceeds

(e) the aggregate of all amounts related to the operation of the automobile paid in the year, by the taxpayer or by a person related to the taxpayer, to the employer or to the person who made the automobile available."

(4) Subsections (1) to (3) are applicable to the 1988 and subsequent taxation years.

2.(1) Paragraphs 8(1)(a), (k) and (l) of the said Act are repealed.

(2) Subsection 8(1) of the said Act is further amended by striking out the word "and" at the end of paragraph (n) thereof, by adding the word "and" at the end of paragraph (o) thereof and by adding thereto the following paragraph:

Musical instrument costs

"(p) where the taxpayer was employed in the year as a musician and as a term of the employment was required to provide a musical instrument for a period in the year, an amount (not exceeding his income for the year from the employment, computed without reference to this paragraph) equal to the aggregate of

(i) amounts expended by him before the end of the year for the maintenance, rental and insurance of the instrument for that period, except to the extent that the amounts are otherwise deducted in computing his income for any taxation year, and

(ii) such part of the capital cost to him of the instrument as is allowed by regulation."

(3) Subsection 8(3) of the said Act is repealed.

(4) Paragraph 8(5)(b) of the said Act is repealed and the following substituted therefor:

"(b) for or under a fund or plan for annuities, insurance (other than professional or malpractice liability insurance that is necessary to maintain a professional status recognized by statute) or similar benefits, or"

(5) Section 8 of the said Act is further amended by adding thereto the following subsections:

Certificate of employer

"(10) An amount otherwise deductible for a taxation year under paragraph (1)(f) or (h) or subparagraph (1)(i)(ii) or (iii) by a taxpayer shall not be deducted unless the taxpayer files with his return of income for the year a prescribed form signed by his employer certifying that the conditions set out in such provision were met in the year in respect of the taxpayer.

Auto expense

(11) Where an individual is entitled to deduct an amount under paragraph (1)(f) or (h) for a taxation year in respect of an automobile used, there may be deducted, in lieu thereof, an amount determined in accordance with prescribed rules."

(6) Subsections (1) to (3) and (5) are applicable to the 1988 and subsequent taxation years.

(7) Subsection (4) is applicable to the 1984 and subsequent taxation years.

3.(1) Section 10 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Certain non-deductible expenses included in cost of inventory

"(1.1) For the purposes of subsection (1), the cost to a particular taxpayer of land that is described in the inventory of a business carried on by him shall include all amounts described in paragraph 18(2)(a) or (b) in respect of that land for which no deduction is permitted to him or, by reason of subsection 18(3), to another taxpayer in respect of whom the particular taxpayer was a person, corporation or partnership described in clause 18(3)(b)(ii)(A), (B) or (C), where the amounts were not included in the cost to that other taxpayer of property."

(2) Subsection (1) is applicable for the 1988 and subsequent taxation years.

4.(1) Paragraph 12(1)(d) of the said Act is repealed and the following substituted therefor:

Reserve for doubtful debts

"(d) any amount deducted under paragraph 20(1)(l) as a reserve in computing the taxpayer's income for the immediately preceding taxation year;

Reserve for guarantees, etc.

(d.1) any amount deducted under paragraph 20(1)(l.1) as a reserve in computing the taxpayer's income for the immediately preceding taxation year;"

(2) Paragraph 12(1)(i) of the said Act is repealed and the following substituted therefor:

Bad debts recovered

"(i) any amount, other than an amount referred to in paragraph (i.1), received in the year on account of a debt in respect of which a deduction for bad debts had been made in computing the taxpayer's income for a preceding taxation year;

Idem

(i.1) 3/4 of any amount received in the year on account of a debt in respect of which a deduction for bad debts under subsection 20(4.2) had been made in computing the taxpayer's income for a preceding taxation year;"

(3) Subsection 12(1) of the said Act is further amended by striking out the word "and" at the end of paragraph (w) thereof, by adding the word "and" at the end of paragraph (x) thereof and by adding thereto the following paragraph:

Auto provided to partner

"(y) where the taxpayer is an individual who is a member of a partnership or an employee of a member of the partnership and the partnership makes an automobile available in the year to the taxpayer or to a person related to the taxpayer, an amount that would be included, by reason of paragraph 6(1)(e), in the income of the taxpayer for the year if the taxpayer were employed by the partnership."

(4) Subsection (1) is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(5) Subsection (2) is applicable after June 17, 1987 except that,

(a) in the case of a corporation, in respect of an amount received on account of a debt which arose as a result of a disposition of property occurring in a taxation year commencing before July, 1988, and

(b) in any other case, in respect of an amount received on account of a debt which arose as a result of a disposition of property occurring in a fiscal period commencing before 1988,

the reference to "3/4" in paragraph 12(1)(i.1) of the said Act, as enacted by subsection (2), shall be read as a reference to "1/2".

(6) Subsection (3) is applicable to the 1988 and subsequent taxation years.

5.(1) Section 12.1 of the said Act is repealed and the following substituted therefor:

Bonus on Can. Savings Bonds

"12.1 Notwithstanding any other provision of this Act, where in a taxation year a taxpayer receives an amount from the Government of Canada in respect of a Canada Savings Bond as a cash bonus that the Government of Canada has undertaken to pay (other than an amount of interest, bonus or principal agreed, at the time of the issue of the bond under the terms of the bond, to be paid) he shall, in computing his income for the year, include as interest in respect of the Canada Savings Bond 3/4 of the cash bonus so received."

(2) Subsection (1) is applicable with respect to amounts received in taxation years and fiscal periods ending after 1987, except that, for amounts received in taxation years and fiscal periods ending after 1987 and before 1990, the reference in section 12.1 of the said Act, as enacted by subsection (1), to "3/4" shall be read as a reference to "2/3".

6.(1) The said Act is further amended by adding thereto, immediately after section 12.2 thereof, the following sections:

Net reserve inclusion

"12.3 Where a taxpayer has deducted an amount under subsection 20(26) in computing his income for his first taxation year that commences after June 17, 1987 and ends after 1987, there shall be included in computing his income for each of his taxation years ending after 1988 and commencing before 1993, the prescribed amount of his net reserve inclusion for that year.

Bad debt inclusion

12.4 Where, in a taxation year, a taxpayer disposes of a property that was a property described in an inventory of the taxpayer and in the year or a preceding taxation year an amount has been deducted under paragraph 20(1)(p) in computing his income in respect of the property, there shall be included in computing his income for the year from the business in which the property was used or held, the amount, if any, by which

(a) the aggregate of all amounts each of which is an amount deducted under paragraph 20(1)(p) by the taxpayer in respect of the property in computing his income for the year or a preceding taxation year

exceeds

(b) the aggregate of all amounts each of which is an amount included under paragraph 12(1)(i) by the taxpayer in respect of the property in computing his income for the year or a preceding taxation year."

(2) Subsection (1) is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

7.(1) Subsection 13(1) of the said Act is repealed and the following substituted therefor:

Recaptured depreciation

"13.(1) Where, at the end of a taxation year, the aggregate of all amounts determined under subparagraphs (21)(f)(iii) to (viii) in respect of a taxpayer's depreciable property of a particular prescribed class exceeds the aggregate of all amounts determined under subparagraphs (21)(f)(i) to (ii.2) in respect thereof, the excess shall be included in computing the taxpayer's income for the year."

(2) Section 13 of the said Act is further amended by adding thereto, immediately after subsection (1) thereof, the following subsection

Idem

"(2) Notwithstanding subsection (1), where the excess amount determined at the end of a taxation year under that subsection is in respect of

(a) a motor vehicle (other than a passenger vehicle) owned by a taxpayer who is an individual (other than a trust) except where all or substantially all of the distance travelled by the vehicle throughout the period that he owned it was for the purpose of earning income, or

(b) a passenger vehicle owned by any taxpayer, that excess amount shall not be included in computing the taxpayer's income for the year but shall be deemed, for the purposes of subparagraph (21)(f)(ii), to be an amount included in the taxpayer's income for the year by reason of this section."

(3) Section 13 of the said Act is further amended by adding thereto, immediately after subsection (6) thereof, the following subsection:

Change in prescribed class of motor vehicle

"(6.1) For the purposes of this section, subsection 20(16) and any regulations made under paragraph 20(1)(a), where in a taxation year a motor vehicle of a taxpayer is included in a separate prescribed class and in the immediately preceding taxation year it was included in another prescribed class that included other property of the taxpayer,

(a) the undepreciated capital cost to the taxpayer of depreciable property of the separate class as of the beginning of the year shall be deemed to be,

(i) where the vehicle is not a passenger vehicle, the amount by which the capital cost to the taxpayer of the vehicle exceeds that part of the capital cost allowance, if any, claimed by him for all preceding taxation years and that may reasonably be considered to have been in respect of the vehicle, or

(ii) where the vehicle is a passenger vehicle, the lesser of

(A) the amount that would be determined under subparagraph (i) if it were not a passenger vehicle, and

(B) the amount by which $20,000, or such other amount as may be prescribed, exceeds that part of the capital cost allowance, if any, claimed by the taxpayer for that preceding taxation year that may reasonably be considered to have been in respect of the vehicle, and

(b) the undepreciated capital cost to the taxpayer of depreciable property of the other prescribed class as of the beginning of the year shall be reduced by an amount equal to the amount deemed under paragraph (a) to be the undepreciated capital cost to the taxpayer of depreciable property of the separate class as of that time."

(4) Paragraph 13(7)(a) of the said Act is repealed and the following substituted therefor:

"(a) where a taxpayer, having acquired property for the purpose of gaining or producing income, has commenced at a later time to use it for some other purpose, he shall be deemed to have disposed of it at that later time at its fair market value at that time;"

(5) All that portion of paragraph 13(7)(b) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(b) where a taxpayer, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income, he shall be deemed to have acquired it at that later time at a capital cost to him equal to the lesser of"

(6) Clause 13(7)(b)(ii)(B) of the said Act is repealed and the following substituted therefor:

"(B) 3/4 of the amount, if any, by which

(I) the fair market value of the property at that later time

exceeds the aggregate of

(II) the cost to him of the property immediately before that later time, and

(III) 4/3 of the amount deducted by him under section 110.6 in respect of the amount, if any, by which the fair market value of the property at that later time exceeds the cost to him of the property immediately before that later time;"

(7) Paragraph 13(7)(c) of the said Act is repealed and the following substituted therefor:

"(c) where property (other than a motor vehicle in respect of which section 67.3 applies) has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income and in part for some other purpose, the taxpayer shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to him equal to the same proportion of the capital cost to him of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property;"

(8) Clause 13(7)(d)(i)(B) of the said Act is repealed and the following substituted therefor:

"(B) 3/4 of the amount, if any, by which

(I) the amount deemed under subparagraph 45(1)(c)(ii) to be his proceeds of disposition of the property in respect of the change

exceeds the aggregate of

(II) the cost to him of the property immediately before that time, and

(III) 4/3 of the amount deducted by him under section 110.6 in respect of the amount, if any, by which the amount determined under subclause (I) exceeds the cost to him of the property immediately before that time, and "

(9) Clause 13(7)(e)(i)(B) of the said Act is repealed and the following substituted therefor:

"(B) 3/4 of the amount, if any, by which

(I) the transferor's proceeds of disposition of the property

exceeds the aggregate of

(II) the cost or capital cost, as the case may be, to the transferor immediately before that time, and

(III) 4/3 of the amount deducted by any person under section 110.6 in respect of the amount, if any, by which the amount determined under subclause (I) exceeds the amount determined under subclause (II)"

(10) Clause 13(7)(e)(ii)(B) of the said Act is repealed and the following substituted therefor:

"(B) 3/4 of the amount, if any, by which the transferor's proceeds of disposition of the property exceeds the cost or capital cost, as the case may be, to the transferor immediately before that time"

(11) Subparagraph 13(7)(f)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) 3/4 of the amount, if any, by which the corporation's proceeds of disposition of the property exceeds the capital cost to the corporation of the property at the time of the disposition."

(12) Subsection 13(7) of the said Act is amended by striking out the word "and" at the end of paragraph (e) thereof and by adding thereto the following paragraphs:

"(g) where the actual cost to a taxpayer of a passenger vehicle exceeds $20,000 or such other amount as may be prescribed, the capital cost to the taxpayer of the vehicle shall be deemed to be $20,000 or that other prescribed amount, as the case may be; and

(h) where a passenger vehicle is acquired by a taxpayer at any time from a person with whom the taxpayer does not deal at arm's length, the cost at that time to the taxpayer of the vehicle shall be deemed to be the least of

(i) the fair market value of the vehicle at that time,

(ii) the amount that immediately before that time was the cost amount to that person of the vehicle, and

(iii) $20,000 or such other amount as may be prescribed."

(13) Paragraph 13(7.1)(a) of the said Act is repealed and the following substituted therefor:

"(a) an amount described in paragraph 37(1)(d),"

(14) All that portion of subsection 13(7.1) of the said Act following paragraph (b.1) thereof is repealed and the following substituted therefor:

"the capital cost of the property to the taxpayer at any particular time shall be deemed to be the amount, if any, by which the aggregate of

(c) the capital cost thereof to the taxpayer, determined without reference to this subsection and subsection (7.4), and

(d) such part, if any, of the assistance as has been repaid by the taxpayer, pursuant to an obligation to repay all or any part of that assistance, in respect of that property before the disposition thereof by him and before that time

exceeds the aggregate of

(e) where the property was acquired in a taxation year ending before that time, all amounts deducted under subsection 127(5) or (6) by the taxpayer for a taxation year ending before that time, and

(f) the amount of assistance the taxpayer has received or is entitled, before that time, to receive

in respect of that property before the disposition thereof by the taxpayer."

(15) Paragraph 13(21)(e) of the said Act is repealed and the following substituted therefor:

"total depreciation"

"(e) "total depreciation" allowed to a taxpayer before any time for property of a prescribed class means the aggregate of all amounts each of which is an amount deducted, or that but for section 67.3 would be deducted, by the taxpayer in respect of property of that class by reason of paragraph 20(1)(a) or an amount deductible under subsection 20(16) or that would have been so deductible but for subsection 20(16.1), in computing income for taxation years ending before that time;"

(16) All that portion of subparagraph 13(21.1)(b)(ii) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(ii) 1/4 of the amount by which the greater of"

(17) Subsection (1) is applicable to the 1985 and subsequent taxation years.

(18) Subsections (2), (3), (12) and (15) are applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(19) Subsections (4), (5) and (7) are applicable with respect to changes in use occurring after April, 1988.

(20) Subsections (6) and (8) to (11) are applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the references to "3/4" and "4/3" in clauses 13(7)(b)(ii)(B), 13(7)(d)(i)(B), 13(7)(e)(i)(B) and 13(7)(e)(ii)(B) of the said Act, as enacted by subsections (6), (8), (9) and (10), shall be read as references to "2/3" and "3/2" respectively;

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the references to "3/4" in clauses 13(7)(b)(ii)(B), 13(7)(d)(i)(B) and 13(7)(e)(ii)(B) and subparagraph 13(7)(f)(ii) of the said Act, as enacted by subsections (6), (8), (10) and (11), shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the references to "3/4" in clauses 13(7)(b)(ii)(B), 13(7)(d)(i)(B) and 13(7)(e)(ii)(B) and subparagraph 13(7)(f)(ii) of the said Act, as enacted by subsections (6), (8), (10) and (11), shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year.

(21) Subsection (13) is applicable with respect to expenditures made after April, 1988.

(22) Subsection (14) is applicable to the 1988 and subsequent taxation years.

(23) Subsection (16) is applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the reference to "1/4" in subparagraph 13(21.1)(b)(ii) of the said Act, as enacted by subsection (16), shall be read as a reference to "1/3";

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "1/4" in subparagraph 13(21.1)(b)(ii) of the said Act, as enacted by subsection (16), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 1/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 1/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation, that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "1/4" in subparagraph 13(21.1)(b)(ii) of the said Act, as enacted by subsection (16), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 1/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 1/4 that the number of days in the year are after 1989 is of the number of days in the year.

8.(1) Subsection 14(1) of the said Act is repealed and the following substituted therefor:

Inclusion in income from business

"14.(1) Where, at the end of a taxation year, the aggregate of all amounts each of which is an amount determined in respect of a business of a taxpayer under subparagraph (5)(a)(iv) (in this Act referred to as an "eligible capital amount") or (v) exceeds the aggregate of all amounts determined under subparagraphs (5)(a)(i) to (iii.1) in respect of the business (which excess is in this subsection referred to as "the excess"),

(a) where the taxpayer is an individual (other than a trust) who was resident in Canada throughout the year,

(i) the amount, if any, that is the lesser of

(A) the excess, and

(B) the amount determined under subparagraph (5)(a)(v) at the end of the year in respect of the business

shall be included in computing the taxpayer's income from that business for the year, and

(ii) the amount, if any, by which the excess exceeds the amount determined under subparagraph (i) shall be deemed to be a taxable capital gain of the individual from a disposition of capital property by him in the year; and

(b) in any other case, the excess shall be included in computing the taxpayer's income from that business for that year."

(2) Paragraph 14(5)(a) of the said Act is repealed and the following substituted therefor:

"cumulative eligible capital"

"(a) "cumulative eligible capital" of a taxpayer at any time in respect of a business of the taxpayer means the amount, if any, by which the aggregate of

(i) 3/4 of the aggregate of all eligible capital expenditures in respect of the business made or incurred by the taxpayer before that time and after his adjustment time,

(ii) the aggregate of all amounts deemed by subparagraph (1)(a)(ii) to have been a taxable capital gain of the taxpayer from a disposition of capital property and all amounts included by reason of paragraph (1)(b) in computing the taxpayer's income from the business for taxation years ending before that time and after the taxpayer's adjustment time,

(iii) 3/2 of the amount, if any, of the taxpayer's cumulative eligible capital in respect of the business at his adjustment time, and

(iii.1) the amount, if any, by which

(A) the aggregate of all amounts deducted under paragraph 20(1)(b) in computing the taxpayer's income from the business for taxation years ending before his adjustment time

exceeds

(B) the aggregate of all amounts included under subsection (1) in computing the taxpayer's income from the business for taxation years ending before his adjustment time

exceeds the total of

(iv) the aggregate of all amounts each of which is 3/4 of the amount, if any, by which

(A) an amount to which, as a result of a disposition occurring after the taxpayer's adjustment time and before that time, he has or will become entitled to receive, in respect of the business carried on or formerly carried on by him where the consideration given by him therefor was such that, if any payment had been made by him after 1971 for that consideration, the payment would have been an eligible capital expenditure of the taxpayer in respect of the business

exceeds

(B) all outlays and expenses to the extent that they were not otherwise deductible in computing the taxpayer's income and were made or incurred by him for the purpose of giving that consideration, and

(v) the amount, if any, by which the total of

(A) the aggregate of all amounts deducted under paragraph 20(1)(b) in computing the taxpayer's income from the business for taxation years ending before that time and after his adjustment time, and

(B) the amount, if any, by which

(I) the aggregate of all amounts deducted under paragraph 20(1)(b) in computing the taxpayer's income from the business for taxation years ending before his adjustment time

exceeds

(II) the aggregate of all amounts included under subsection (1) in computing the taxpayer's income for taxation years ending before his adjustment time,

exceeds

(C) the aggregate of all amounts included under subparagraph (1)(a)(i) in computing the taxpayer's income from the business for taxation years ending before that time and after his adjustment time;"

(3) Subsection 14(5) of the said Act is further amended by adding thereto, immediately after paragraph (b) thereof, the following paragraph:

"adjustment time"

"(c) "adjustment time" of a taxpayer in respect of a business is,

(i) in the case of a corporation formed as a result of an amalgamation occurring after June 30, 1988, the time immediately before the amalgamation,

(ii) in the case of any other corporation, the time immediately after the commencement of its first taxation year commencing after June 30, 1988, and

(iii) for any other taxpayer, the time immediately after the commencement of the taxpayer's first fiscal period commencing after 1987 in respect of the business."

(4) Subsection 14(6) of the said Act is repealed and the following substituted therefor:

Exchange of property

"(6) Where in a taxation year (in this subsection referred to as the "initial year") a taxpayer has disposed of an eligible capital property (in this section referred to as his "former property"), if the taxpayer so elects under this subsection in his return of income under this Part for the year in which he acquires, as a replacement property for his former property, an eligible capital property (in this section referred to as a "replacement property"), such amount not exceeding the amount that would otherwise be included in the aggregate computed under subparagraph (5)(a)(iv) (if that subparagraph were read without reference to "3/4 of") in respect of a business as has been used by the taxpayer before the end of the first taxation year following the initial year to acquire the replacement property

(a) shall, subject to paragraph (b), not be included in the aggregate computed under subparagraph (5)(a)(iv) for the purpose of determining the cumulative eligible capital of the taxpayer in respect of the business; and

(b) shall, to the extent of 3/4 thereof, be included in the aggregate computed under subparagraph (5)(a)(iv) for the purpose of determining the cumulative eligible capital of the taxpayer in respect of the business at a time that is the later of

(i) the time the replacement property was acquired by the taxpayer, and

(ii) the time the former property was disposed of by the taxpayer."

(5) Subsections (1) and (2) are applicable,

(a) in the case of a corporation, for taxation years commencing after June, 1988, and

(b) in any other case, for fiscal periods commencing after 1987,

and, with respect to dispositions of property occurring after June 17, 1987, otherwise than pursuant to the terms of an obligation entered into in writing before June 18, 1987, and before paragraph 14(5)(a) as enacted by subsection (2) comes into effect, clause 14(5)(a)(iv)(A) of the said Act shall be read as follows:

"(A) an amount to which, as a result of a disposition occurring after 1971 and before that time, the taxpayer has or will become entitled to receive, in respect of a business carried on or formerly carried on by him where the consideration given by the taxpayer therefor was such that, if any payment had been made by the taxpayer after 1971 for that consideration, the payment would have been an eligible capital expenditure of the taxpayer in respect of the business,"

(6) Subsection (3) is applicable after June 17, 1987.

(7) Subsection (4) is applicable with respect to dispositions of eligible capital property occurring,

> (a) in the case of a corporation, in taxation years commencing after June, 1988, and
>
> (b) in any other case, in fiscal periods commencing after 1987,

and, with respect to dispositions occurring,

> (c) in the case of a corporation, in the last taxation year of the corporation commencing before July, 1988, and
>
> (d) in any other case, in the last fiscal period of the taxpayer commencing before 1988,

the reference to "1/2" in paragraph 14(6)(b) of the said Act, as it was before the enactment of subsection (4), shall be read as references to "3/4".

9.(1) Subsection 15(1) of the said Act is repealed and the following substituted therefor:

Benefit conferred on shareholder

"15.(1) Where, in a taxation year, a benefit has been conferred on a shareholder, or on a person in contemplation of his becoming a shareholder, by a corporation otherwise than by

> (a) the reduction of the paid-up capital, the redemption, cancellation or acquisition by the corporation of shares of its capital stock or on the winding-up, discontinuance or reorganization of its business, or otherwise by way of a transaction to which section 88 applies,
>
> (b) the payment of a dividend,
>
> (c) conferring on all owners of common shares of the capital stock of the corporation a right to buy additional shares thereof, or
>
> (d) an action described in paragraph 84(1)(c.1) or (c.2),

the amount or value thereof shall, except to the extent that it is deemed by section 84 to be a dividend, be included in computing the income of the shareholder for the year."

(2) Subsection (1) is applicable with respect to benefits conferred after June, 1988.

10.(1) Subsection 16(1) of the said Act is repealed and the following substituted therefor:

Income and capital combined

> "16.(1) Where, under a contract or other arrangement, an amount can reasonably be regarded as being in part interest or other amount of an income nature and in part an amount of a capital nature, the following rules apply:
>
> (a) the part of the amount that can reasonably be regarded as interest shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be deemed to be interest on a debt obligation held by the person to whom the amount is paid or payable; and
>
> (b) the part of the amount that can reasonably be regarded as an amount of an income nature (other than interest) shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in the income of the taxpayer to whom the amount is paid or payable for the taxation year in which the amount was received or became receivable to the extent it has not otherwise been included in the taxpayer's income."

(2) Subsection (1) is applicable with respect to amounts paid or payable after June, 1988.

11.(1) Paragraph 18(1)(e) of the said Act is repealed and the following substituted therefor:

> "(e) an amount as, or on account of, a reserve, a contingent liability or amount or a sinking fund except as expressly permitted by this Part;"

(2) Subsection 18(1) of the said Act is further amended by adding thereto, immediately after paragraph (e) thereof, the following paragraph:

> Unpaid claims under insurance policies
>
> "(e.1) an amount in respect of claims that were received by an insurer before the end of the year under insurance policies and that are unpaid at the end of the year, except as expressly permitted by this Part;"

(3) Paragraph 18(1)(h) of the said Act is repealed and the following substituted therefor:

Personal and living expenses

"(h) personal or living expenses of the taxpayer except travelling expenses incurred by the taxpayer while away from home in the course of carrying on his business;"

(4) Subsection 18(1) of the said Act is further amended by striking out the word "or" at the end of paragraph (p) thereof and by adding thereto the following paragraphs:

Certain automobile expenses

"(r) an amount paid or payable by the taxpayer as an allowance for the use by an individual of an automobile to the extent that the amount exceeds an amount determined in accordance with prescribed rules except where the individual is an employee entitled to deduct an amount under paragraph 8(1)(f) or (h) in respect of that use; and

Loans or lending assets

(s) any loss, depreciation or reduction in the value or amortized cost of a loan or lending asset described in subparagraph 20(1)(l)(ii) of a taxpayer who was an insurer or whose ordinary business included the lending of money, acquired by the taxpayer in the ordinary course of that business and not disposed of by the taxpayer in the taxation year, except as expressly permitted by this Part."

(5) Subsection 18(2) of the said Act is repealed and the following substituted therefor:

Limit on certain interest and property tax

"(2) Notwithstanding paragraph 20(1)(c), in computing the taxpayer's income for a particular taxation year from a business or property, no amount shall be deductible in respect of any expense incurred by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of,

(a) interest on debt relating to the acquisition of land, or

(b) property taxes (not including income or profits taxes or taxes computed by reference to the transfer of property) paid or payable by him in respect of land to a province or to a Canadian municipality, unless having regard to all the circumstances (including the cost to the taxpayer of the land in relation to his gross revenue, if any, therefrom for the particular year or any preceding taxation year) the land can reasonably be considered to have been, in the year,

(c) used in the course of a business carried on in the particular year by the taxpayer, other than a business in the ordinary course of which land is held primarily for the purpose of resale or development, or

(d) held primarily for the purpose of gaining or producing income of the taxpayer from the land for the particular year,

except to the extent of the aggregate of

(e) the amount, if any, by which the taxpayer's gross revenue, if any, from the land for the particular year exceeds the aggregate of all amounts deducted in computing his income from the land for the year; and

(f) in the case of a corporation whose principal business is the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of real property owned by it, to or for a person with whom the corporation is dealing at arm's length, the corporation's base level deduction for the particular year."

(6) Section 18 of the said Act is further amended by adding thereto, immediately after subsection (2.1) thereof, the following subsections:

Base level deduction

"(2.2) For the purposes of this section, a corporation's base level deduction for a taxation year is the amount that would be the amount of interest, computed at the prescribed rate, for the year in respect of a loan of $1,000,000 outstanding throughout the year, unless the corporation is associated in the year with one or more other corporations in which case, except as otherwise provided in this section, its base level deduction for the year is nil.

Associated Corporations

(2.3) Notwithstanding subsection (2.2), if all of the corporations that are associated with each other in a taxation year have filed with the Minister in prescribed form an agreement whereby, for the purposes of this section, they allocate an amount to one or more of them for the taxation year and the amount so allocated or the aggregate of the amounts so allocated, as the case may be, does not exceed $1,000,000, the base level deduction for the year for each of the corporations is the base level deduction that would be computed under subsection (2.2) in respect of the corporation if the reference therein to $1,000,000 were read as a reference to the amount so allocated to it.

Failure to file agreement

(2.4) If any of the corporations that are associated with each other in a taxation year has failed to file with the Minister an agreement as contemplated by subsection (2.3) within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax under this Part, the Minister shall, for the purpose of this section, allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, shall equal $1,000,000 and in any such case, the amount so allocated to any corporation shall be deemed to be an amount allocated to the corporation pursuant to subsection (2.3).

Special rules for base level deduction

(2.5) Notwithstanding any other provision of this section,

(a) where a corporation (in this paragraph referred to as the "first corporation") has more than one taxation year ending in the same calendar year and it is associated in two or more of those taxation years with another corporation that has a taxation year ending in that calendar year, the base level deduction of the first corporation for each taxation year in which it is associated with the other corporation ending in that calendar year is, subject to the application of paragraph (b), an amount equal to its base level deduction for the first such taxation year determined without reference to paragraph (b), and

(b) where a corporation has a taxation year that is less than 51 weeks, its base level deduction for the year is that proportion of its base level deduction for the year determined without reference to this paragraph that the number of days in the year is of 365."

(7) All that portion of paragraph 18(3)(b) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(b) "interest on debt relating to the acquisition of land" includes"

(8) Subparagraph 18(3)(b)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) interest paid or payable in the year by a taxpayer in respect of borrowed money that may reasonably be considered (having regard to all the circumstances) to have been used to assist, directly or indirectly,

(A) another person with whom the taxpayer does not deal at arm's length,

(B) a corporation of which the taxpayer is a specified shareholder, or

(C) a partnership of which the taxpayer's share of any income or loss is 10% or more,

to acquire land to be used or held by that person, corporation or partnership otherwise than as described in paragraph 18(2)(c) or (d), except where the assistance is in the form of a loan to that person, corporation or partnership and a reasonable rate of interest thereon is charged by the taxpayer."

(9) All that portion of paragraph 18(3.1)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) no deduction shall be made in respect of any outlay or expense made or incurred by the taxpayer, other than an amount deductible by virtue of paragraph 20(1)(a) or (aa), that may reasonably be regarded as a cost attributable to the period of the construction, renovation or alteration of a building and relating to the construction, renovation or alteration or a cost attributable to that period and relating to the ownership during that period, of land"

(10) Paragraph 18(3.1)(b) of the said Act is repealed and the following substituted therefor:

"(b) the amount of such outlay or expense shall be included in computing the cost or capital cost, as the case may be, of the building to the taxpayer, to the person with whom the taxpayer does not deal at arm's length, to the corporation of which the taxpayer is a specified shareholder, or to the partnership of which the taxpayer's share of any income or loss is 10% or more, as the case may be."

(11) Paragraph 18(3.2)(b) of the said Act is repealed and the following substituted therefor:

"(b) interest paid or payable by a taxpayer in respect of borrowed money that may reasonably be considered (having regard to all the circumstances) to have been used to assist, directly or indirectly,

(i) another person with whom the taxpayer does not deal at arm's length,

(ii) a corporation of which the taxpayer is a specified shareholder, or

(iii) a partnership of which the taxpayer's share of any income or loss is 10% or more,

to construct, renovate or alter a building or to purchase land, except where the assistance is in the form of a loan to that other person, corporation or partnership and a reasonable rate of interest thereon is charged by the taxpayer."

(12) Subsection 18(3.4) of the said Act is repealed and the following substituted therefor:

Exceptions

"(3.4) Subsection (3.1) does not apply to prohibit a deduction in a taxation year of the specified percentage of any outlay or expense described in subsection (3.1) made or incurred before 1992 by

(a) a corporation whose principal business is throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of real property owned by it to or for a person with whom the corporation is dealing at arm's length, or

(b) a partnership

(i) each member of which is a corporation described in paragraph (a), and

(ii) the principal business of which is throughout the year the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of real property held by it, to or for a person with whom each member of the partnership is dealing at arm's length,

and for the purposes of this subsection, "specified percentage" means, in respect of an outlay or expense made or incurred in 1988, 80%, in 1989, 60%, in 1990, 40%, and in 1991, 20%."

(13) Subparagraph 18(5)(a)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) where the corporation is controlled by a non-resident insurance corporation, the aggregate of all amounts each of which is an amount outstanding at the particular time as or on account of a debt or other obligation to pay an amount to the non-resident insurance corporation where the amount outstanding at the particular time has, in the non-resident insurance corporation's taxation year that included the particular time, been included as property used by it in the year in, or held by it in the year in the course of (within the meaning assigned by paragraph 138(12)(l)) carrying on an insurance business in Canada,"

(14) Paragraph 18(9)(d) of the said Act is repealed and the following substituted therefor:

"(d) for the purposes of paragraph (a), an outlay or expense shall be deemed not to include any payment referred to in clause 37(1)(a)(ii)(E)."

(15) Section 18 of the said Act is further amended by adding thereto the following subsections:

Work space in home

"(12) Notwithstanding any other provision of this Act, in computing an individual's income from a business for a taxation year,

(a) no amount shall be deducted in respect of an otherwise deductible amount for any part (in this subsection referred to as the "work space") of a self-contained domestic establishment in which the individual resides, except to the extent that the work space is either

(i) the individual's principal place of business, or

(ii) used exclusively on a regular and continuous basis for meeting clients, customers or patients of the individual;

(b) where the conditions set out in subparagraphs (a)(i) or (ii) are met, the amount in respect of the work space that is deductible in computing the individual's income from the business for a taxation year shall not exceed the individual's income from the business for the year, computed without reference to the amount; and

(c) any amount not deductible by reason only of paragraph (b), in computing the individual's income from the business for the immediately preceding taxation year in respect of the business shall be deemed to be an amount otherwise deductible for the year for the work space that, subject to paragraphs (a) and (b), may be deducted for the work space in respect of the business.

Superficial loss

(13) Subject to subsection 138(5.2) and notwithstanding any other provision of this Act, where a taxpayer

(a) who was a resident of Canada at any time in a taxation year and whose ordinary business during that year included the lending of money, or

(b) who at any time in the year carried on a business of lending money in Canada

has sustained a loss on a disposition of property used or held in that business that is a share, or a loan, bond, debenture, mortgage, note, hypothec, agreement of sale or any other indebtedness, other than a property that is a capital property of the taxpayer, no amount shall be deducted in computing the income of the taxpayer from that business for the year in respect of the loss where

(c) during the period commencing 30 days before and ending 30 days after the disposition, the taxpayer or a person or partnership that does not deal at arm's length with the taxpayer acquired or agreed to acquire the same or identical property (in this subsection referred to as the "substituted property"), and

(d) at the end of the period referred to in paragraph (a), the taxpayer or the person or partnership, as the case may be, owned or had a right to acquire the substituted property,

and any such loss shall be added in computing the cost to the taxpayer or the person or partnership, as the case may be, of the substituted property."

(16) Subsection (1) is applicable to taxation years commencing after June, 1988.

(17) Subsection (2) and (13) are applicable to taxation years commencing after June 17, 1987 that end after 1987.

(18) Subsections (3) is applicable to expenses incurred and amounts paid or payable after 1987.

(19) Paragraph 18(1)(r) of the said Act, as enacted by subsection (4), is applicable with respect to allowances paid for use after 1987 of automobiles.

(20) Paragraph 18(1)(s) of the said Act, as enacted by subsection (4), and subsection 18(13) of the said Act, as enacted by subsection (15), are applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(21) Subsection (5) is applicable to the 1988 and subsequent taxation years except that in respect of expenses incurred in respect of land that may reasonably be considered to be held, but not used, in the course of a business carried on in the year by the taxpayer or land used in the course of a business in the ordinary course of which land is held primarily for the purpose of resale or development, for taxation years ending before 1992 that portion of subsection 18(2) of the said Act following paragraph (d) thereof, as enacted by subsection (5) shall be read as follows:

"except to the extent of the aggregate of

(e) the amount, if any, by which the taxpayer's gross revenue, if any, from the land for the particular year exceeds the aggregate of all amounts deducted in computing his income from the land for the year,

(f) in the case of a corporation whose principal business is the leasing, rental or sale, or the development for lease, rental or sale, or any combination thereof, of real property owned by it, to or for a person with whom the corporation is dealing at arm's length, the corporation's base level deduction for the particular year, and

(g) the specified percentage of the amount by which the aggregate of all such expenses incurred in the particular year exceeds the aggregate of the amounts determined under paragraphs (e) and (f) for the year,

and, for the purposes of paragraph (g), "specified percentage" means the aggregate of

(h) that proportion of 100% that the number of days in the particular year that are before 1988 is of the number of days in the year;

(i) that proportion of 80% that the number of days in the particular year that are after 1987 and before 1989 is of the number of days in the year;

(j) that proportion of 60% that the number of days in the particular year that are after 1988 and before 1990 is of the number of days in the year;

(k) that proportion of 40% that the number of days in the particular year that are after 1989 and before 1991 is of the number of days in the year; and

(l) that proportion of 20% that the number of days in the particular year that are after 1990 and before 1992 is of the number of days in the year."

(22) Subsections (6), (7) and (10) are applicable to the 1988 and subsequent taxation years.

(23) Subsections (8) and (11) are applicable to taxation years commencing after April, 1988.

(24) Subsection (9) is applicable in respect of buildings acquired by a taxpayer after 1989.

(25) Subsection (12) is applicable with respect to outlays and expenses made or incurred after 1987.

(26) Subsection (14) is applicable in respect of payments to which paragraph 37(1)(a) of the said Act as enacted by subsection 15(1) of this Act is applicable.

(27) Subsection 18(12) of the said Act, as enacted by subsection (15), is applicable to fiscal periods commencing after 1987.

12.(1) Paragraph 20(1)(b) of the said Act is repealed and the following substituted therefor:

Cumulative eligible capital amount

"(b) such amount as the taxpayer may claim in respect of a business, not exceeding 7% of his cumulative eligible capital in respect of the business at the end of the year;"

(2) Paragraph 20(1)(e) of the said Act is repealed and the following substituted therefor:

Expenses re. financing.

"(e) such part of an amount that is not otherwise deductible in computing the income of the taxpayer and that is an expense incurred in the year or a preceding taxation year

(i) in the course of an issuance or sale of units of the taxpayer where the taxpayer is a unit trust, of interests in a partnership or syndicate by the partnership or syndicate, as the case may be, or of shares of the capital stock of the taxpayer, or

(ii) in the course of a borrowing of money used by the taxpayer for the purpose of earning income from a business or property (other than money used by the taxpayer for the purpose of acquiring property the income from which would be exempt),

(including a commission, fee or other amount paid or payable for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of the issuance, sale or borrowing, but not including any amount paid or payable as or on account of the principal amount of the indebtedness or as or on account of interest) that is the lesser of,

(iii) that proportion of 20% of the expense that the number of days in the year is of 365, and

(iv) the amount, if any, by which the expense exceeds the aggregate of all amounts each of which is an amount deductible by the taxpayer in respect of the expense in computing his income for a preceding taxation year

and for the purposes of this paragraph

(v) where in a taxation year all debt obligations in respect of a borrowing are settled or extinguished (otherwise than in a transaction made as part of a series of borrowings or other transactions and repayments), by the taxpayer for consideration that does not include any unit, interest, share or debt obligation of the taxpayer or any person with whom the taxpayer does not deal at arm's length or any partnership or trust of which the taxpayer or any person with whom the taxpayer does not deal at arm's length is a member or beneficiary, this paragraph shall be read without reference to the words "the lesser of" and to subparagraph (iii), and

(vi) where a partnership has ceased to exist at any particular time in a fiscal period of the partnership,

(A) no amount may be deducted by the partnership under this paragraph in computing its income for the period, and

(B) there may be deducted for a taxation year ending at or after that time by any person or partnership that was a member of the partnership immediately before that time, that proportion of the amount that would, but for this subparagraph, have been deductible under this paragraph by the partnership in the fiscal period ending in the year had it continued to exist and had the partnership interest not been redeemed, acquired or cancelled, that the fair market value of such member's interest in the partnership immediately before that time is of the fair market value of all the interests in the partnership immediately before that time;

Guarantee fees etc.

(e.1) where the taxpayer has, in the course of a borrowing of money used by him for the purpose of earning income from a business or property (other than money used by the taxpayer for the purpose of acquiring property the income from which would be exempt), entered into an agreement with another person, and under the terms of the agreement the other person undertakes to guarantee the repayment of all or any part of the borrowing or to lend money or make money available to the taxpayer, any amount paid or payable by the taxpayer that may reasonably be considered to relate solely to the year as consideration for the undertaking;"

(3) Subparagraph 20(1)(f)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) in any other case, 3/4 of the lesser of the amount so paid and the amount by which the lesser of the principal amount of the obligation and all amounts paid in the year or in any preceding year in satisfaction of the principal amount thereof exceeds the amount for which the obligation was issued;"

(4) Paragraph 20(1)(k) of the said Act is repealed.

(5) Paragraph 20(1)(l) of the said Act is repealed and the following paragraphs are substituted therefor:

Reserve for doubtful debts

"(l) a reserve determined as the aggregate of

(i) a reasonable amount in respect of doubtful debts that have been included in computing the income of the taxpayer for that year or a preceding year, and

(ii) an amount in respect of loans or lending assets of a taxpayer who was an insurer or whose ordinary business included the lending of money, made or acquired by the taxpayer in the ordinary course of that business, equal to the aggregate of

(A) the prescribed reserve amount for the taxpayer for the year, and

(B) the lesser of

(I) a reasonable amount as a reserve for doubtful loans or lending assets in respect of the amortized cost of the loans or lending assets to the taxpayer at the end of the year, and

(II) the product obtained when the aggregate of

1. that part of the reserve for doubtful loans or lending assets reported in the financial statements of the taxpayer for the year that is in respect of the amortized cost to the taxpayer at the end of the year of loans or lending assets, and

2. the aggregate of all amounts included in computing the taxpayer's income under subsection 12(3) for the year or a preceding taxation year to the extent that such amounts reduced the part of the reserve referred to in sub-subclause 1

is multiplied by one minus the prescribed recovery rate,

or such lesser amount as the taxpayer may claim;

Reserve for guarantees etc.

(1.1) a reserve in respect of credit risks under guarantees, indemnities, letters of credit or other credit facilities, bankers' acceptances, interest rate or currency swaps, foreign exchange or other future or option contracts, interest rate protection agreements, risk participations and other similar instruments or commitments issued, made or assumed by a taxpayer who was an insurer or whose ordinary business included the lending of money in favour of persons with whom the taxpayer deals at arm's length in the ordinary course of that business, equal to the lesser of

(i) a reasonable amount as a reserve for credit risk losses of the taxpayer expected to arise after the end of the year under or in respect of such instruments or commitments, and

(ii) the product obtained when the reserve for credit risk losses of the taxpayer expected to arise after the end of the year under or in respect of such instruments or commitments reported in the financial statements of the taxpayer for the year is multiplied by one minus the prescribed recovery rate,

or such lesser amount as the taxpayer may claim;"

(6) Paragraph 20(1)(p) of the said Act is repealed and the following substituted therefor:

Bad debts

"(p) the aggregate of

(i) all debts owing to the taxpayer that are established by him to have become bad debts in the year and that have been included in computing his income for the year or a preceding taxation year, and

(ii) all amounts each of which is that part of the amortized cost to the taxpayer at the end of the year of a loan or lending asset made or acquired in the ordinary course of business by a taxpayer who was an insurer or whose ordinary business included the lending of money established by him to have become uncollectable in the year;"

(7) Paragraph 20(1)(t) of the said Act is repealed.

(8) All that portion of paragraph 20(1)(z.1) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

"to the extent of the amount thereof (or in the case of capital property, 3/4 of the amount thereof) that was not deductible by him under paragraph (z) in computing his income for any preceding taxation year;"

(9) All that portion of paragraph 20(1)(ll) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

"as was paid in the year and as may reasonably be considered to be repayment of interest that was included in computing his income for the year or a preceding taxation year;"

(10) Paragraph 20(1)(nn) of the said Act is repealed.

(11) Section 20 of the said Act is further amended by adding thereto, immediately after subsection 20(4.1) thereof, the following subsection:

Idem

"(4.2) Where an amount that was included in the calculation of a taxpayer's cumulative eligible capital by reason of clause 14(5)(a)(iv)(A) in respect of a disposition of eligible capital property by him is established by him to have become a bad debt in a taxation year, the amount, if any, by which

(a) 3/4 of the aggregate of all amounts each of which is such an amount that was so established by him to be a bad debt in the year or in a preceding taxation year, exceeds the total of

(b) aggregate of all amounts each of which is an amount determined under subparagraph 14(1)(a)(ii) in respect of the taxpayer for the year or a preceding taxation year, and in respect of which a deduction under section 110.6 may reasonably be considered to have been claimed, and

(c) the aggregate of all amounts deducted by the taxpayer under this subsection in preceding taxation years

shall be deducted in computing his income for the year."

(12) Paragraph 20(16)(a) of the said Act is repealed and the following substituted therefor:

"(a) the aggregate of all amounts determined under subparagraphs 13(21)(f)(i) to (ii.2) in respect of a taxpayer's depreciable property of a particular class exceeds the aggregate of all amounts determined under subparagraphs 13(21)(f)(iii) to (viii) in respect thereof, and"

(13) Section 20 of the said Act is further amended by adding thereto, immediately after subsection (16) thereof, the following subsection

Idem

"(16.1) Notwithstanding paragraph (16)(c), where the excess amount at the end of a taxation year determined under paragraph (16)(a) is in respect of,

(a) a motor vehicle (other than a passenger vehicle) owned by a taxpayer who is an individual (other than a trust) except where all or substantially all of the distance travelled by the vehicle throughout the period that he owned it was for the purpose of earning income from a business or property, or

(b) a passenger vehicle owned by any taxpayer,

that excess shall not be deducted in computing the taxpayer's income for the year."

(14) Section 20 of the said Act is further amended by adding thereto the following subsection:

Deduction re net reserve adjustment

"(26) In computing the income from a business of a taxpayer who is an insurer or whose business includes the lending of money for the taxpayer's first taxation year that commences after June 17, 1987 and ends after 1987, there may be deducted an amount equal to his prescribed amount of net reserve adjustment or such lesser amount as the taxpayer may claim."

(15) Subsection (1) is applicable,

(a) in the case of a corporation, for taxation years commencing after June, 1988; and

(b) in any other case, for fiscal periods commencing after 1987.

(16) Subsection (2) is applicable to expenses incurred after 1987 in respect of issuances, sales and borrowings occurring after 1987.

(17) Subsections (3) and (8) are applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the references to "3/4" in subparagraph 20(1)(f)(ii) and paragraph 20(1)(z.1) of the said Act, as enacted by subsections (3) and (8), shall be read as references to "2/3";

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the references to "3/4" in subparagraph 20(1)(f)(ii) and paragraph 20(1)(z.1) of the said Act, as enacted by subsections (3) and (8), shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the references to "3/4" in subparagraph 20(1)(f)(ii) and paragraph 20(1)(z.1) of the said Act, as enacted by subsections (3) and (8), shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year.

(18) Subsection (4) is applicable with respect to amounts paid or payable after June, 1988.

(19) Subsections (5), (6), (13) and (14) are applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(20) Subsection (7) is applicable after December 15, 1987.

(21) Subsections (9) and (10) are applicable to the 1988 and subsequent taxation years.

(22) Subsection (11) is applicable with respect to dispositions of property occurring after June 17, 1987, other than dispositions pursuant to the terms of an obligation entered into in writing before June 18, 1987, except that,

(a) in the case of a corporation, in respect of dispositions of property occurring in taxation years commencing before July, 1988, and

(b) in any other case, in respect of dispositions of property occurring in fiscal periods commencing before 1988,

the reference to "3/4" in subsection 20(4.2) of the said Act, as enacted by subsection (11), shall be read as a reference to "1/2".

(23) Subsection (12) is applicable to the 1985 and subsequent taxation years.

13.(1) Section 26 of the said Act is repealed and the following substituted therefor:

Banks

"26(1) There shall be included in computing the income of a bank to which the Bank Act or the Quebec Savings Banks Act applies for its first taxation year that commences after June 17, 1987 and ends after 1987 the total of

(a) the aggregate of the specific provisions of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, as at the end of its immediately preceding taxation year;

(b) the aggregate of the general provisions of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, as at the end of its immediately preceding taxation year;

(c) the amount, if any, by which

(i) the amount of the special provision for losses on transborder claims of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, that was deductible by the bank under subsection 26(2) in computing its income for its immediately preceding taxation year

exceeds

(ii) that part of the amount determined under subparagraph (i) that was a realized loss of the bank for that immediately preceding taxation year; and

(d) the amount, if any, of the tax allowable appropriations account of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, at the end of its immediately preceding taxation year.

Idem

(2) In computing the income for a taxation year of a bank to which the Bank Act or the Quebec Savings Banks Act applies, there may be deducted an amount not exceeding the aggregate of

(a) that part of the total of the amounts of the five-year average loan loss experiences of the bank, as determined, or as would be determined if such a determination were required, under the Minister's rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year;

(b) that part of the total of the amounts transferred by the bank to its tax allowable appropriations account, as permitted under the Minister's rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year;

(c) that part of the amount, if any, by which

> (i) the amount of the special provision for losses on transborder claims, as determined, or as would be determined if such a determination were required, under the Minister's rules, that was deductible by the bank under subsection 26(2) in computing its income for its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987

exceeds

> (ii) that part of the amount determined under subparagraph (i) that was a realized loss of the bank for that last taxation year

that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year;

(d) where the tax allowable appropriations account of the bank at the end of its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987, as determined, or as would be determined if such a determination were required, under the Minister's rules, is a negative amount, that part of such amount expressed as a positive number that is specified by the bank for the year and was not deducted by the bank in computing its income for any preceding taxation year; and

(e) that part of the total of the amounts calculated in respect of the bank for the purposes of the Minister's rules, or that would be calculated for the purposes of those rules if such a calculation were required, under Procedure 8 of the Procedures for the Determination of the Provision for Loan Losses as set out in Appendix 1 of those rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that is specified by bank for the year and was not deducted by the bank in computing its income for any preceding taxation year.

Write-offs and recoveries

(3) In computing the income of a bank to which the Bank Act or the Quebec Savings Banks Act applies, the following rules apply:

(a) any amount that was recorded by the bank as a realized loss or a write-off of an asset that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included in the calculation of such an amount if such a calculation had been required, for any taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987, shall, for the purposes of paragraph 12(1)(i) and section 12.4, be deemed to have been deducted by the bank under paragraph 20(1)(p) in computing its income for the year for which it was so recorded; and

(b) any amount that was recorded by the bank as a recovery of a realized loss or a write-off of an asset that was included by the bank in the calculation of an amount deductible under the Minister's rules, or would have been included in the calculation of such an amount if such a calculation had been required, for any taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987 shall, for the purposes of section 12.4, be deemed to have been included by the bank under paragraph 12(1)(i) in computing its income for the year for which it was so recorded.

"Minister's rules" defined

(4) For the purposes of this section "Minister's rules" means the Rules for the Determination of the Appropriations for Contingencies of a Bank issued under the authority of the Minister of Finance pursuant to section 308 of the Bank Act for the purposes of subsections 26(1) and (2) of the Income Tax Act."

(2) Subsection (1) is applicable to taxation years commencing after June 17, 1987 that end after 1987.

14.(1) Section 33 of the said Act is repealed.

(2) Subsection (1) is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987, except that the repeal of subsection 33(2) of the said Act is applicable with respect to taxation years and fiscal periods after the first taxation year or fiscal period that commences after June 17, 1987 and ends after 1987.

15.(1) All that portion of subsection 37(1) of the said Act preceding paragraph (c) thereof is repealed and the following substituted therefor:

Scientific research and experimental development

"37.(1) Where a taxpayer carried on a business in Canada in a taxation year and files with his return of income under this Part for the year a prescribed form containing prescribed information, there may be deducted in computing his income from the business for the year such amount as he may claim not exceeding the amount, if any, by which the aggregate of

(a) the aggregate of all amounts each of which is an expenditure of a current nature made by the taxpayer in the year or in a preceding taxation year ending after 1973

(i) on scientific research and experimental development carried on in Canada, directly undertaken by or on behalf of the taxpayer, and related to a business of the taxpayer in which he was actively engaged at the time the expenditure was made, or

(ii) by payments to

(A) an approved association that undertakes scientific research and experimental development,

(B) an approved university, college, research institute or other similar institution,

(C) a corporation resident in Canada and exempt from tax under paragraph 149(1)(j),

(D) a corporation resident in Canada, or

(E) an approved organization that makes payments to an association, institution or corporation described in any of clauses (A) to (C)

to be used for scientific research and experimental development carried on in Canada, related to a business of the taxpayer in which he was actively engaged at the time the payment was made, and provided that the taxpayer is entitled to exploit the results of such scientific research and experimental development,

(b) the lesser of

(i) the aggregate of all amounts each of which is an expenditure of a capital nature made by the taxpayer (in respect of property acquired that would be depreciable property of the taxpayer if this section were not applicable in respect of the property, other than land or a leasehold interest in land) in the year or in a preceding taxation year ending after 1958 or scientific research and experimental development carried on in Canada, directly undertaken by or on behalf of the taxpayer, and related to a business of the taxpayer in which he was actively engaged at the time the expenditure was made, and

(ii) the undepreciated capital cost to the taxpayer of the property so acquired as of the end of the taxation year (before making any deduction under this paragraph in computing the income of the taxpayer for the taxation year),"

(2) Paragraph 37(1)(c) of the said Act is repealed and the following substituted therefor:

"(c) the aggregate of all amounts each of which is an expenditure made by the taxpayer in the year or in a preceding taxation year ending after 1973 by way of repayment of amounts described in paragraph (d), and"

(3) Paragraph 37(1)(d) of the said Act is repealed and the following substituted therefor:

"(d) the aggregate of all amounts each of which is the amount of any government assistance or non-government assistance (within the meanings assigned to those expressions by subsection 127(9)) in respect of an expenditure described in paragraph (a) or (b) that, at the time of filing of the return of income for the year, the taxpayer has received, is entitled to receive or can reasonably be expected to receive;"

(4) Paragraphs 37(1)(e) and (f) of the said Act are repealed and the following substituted therefor:

"(e) that part of the aggregate of all amounts each of which is an amount deducted under subsection 127(5) in computing the tax otherwise payable by the taxpayer under this Part for a preceding taxation year that may reasonably be attributed to expenditures of a current nature made in a preceding taxation year that were qualified expenditures in respect of scientific research and experimental development for the purposes of section 127;

(f) the aggregate of all amounts each of which is an amount deducted under this subsection in computing the taxpayer's income for a preceding taxation year, except amounts described in subsection (6);"

(5) Paragraph 37(1)(h) of the said Act is repealed and the following substituted therefor:

"(h) where the taxpayer is a corporation control of which has been acquired by a person or group of persons before the end of the year, the amount determined for the year under subsection (6.1) with respect to the corporation."

(6) Section 37 of the said Act is further amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Business of related corporations

"(1.1) Notwithstanding paragraph (7)(e), for the purposes of subsection (1), where a taxpayer is a corporation, scientific research and experimental development, related to a business carried on by another corporation to which the taxpayer is related (otherwise than by reason of a right referred to in paragraph 251(5)(b)) and in which that other corporation is actively engaged, at the time at which an expenditure or payment in respect of the scientific research and experimental development is made by the taxpayer, shall be considered to be related to a business in which the taxpayer is actively engaged at that time."

(7) Subsection 37(2) of the said Act is repealed and the following substituted therefor:

Research Outside Canada

"(2) In computing the income of a taxpayer for a taxation year from a business of the taxpayer in which he was actively engaged, there may be deducted expenditures of a current nature made by him in the year

(a) on scientific research and experimental development carried on outside Canada, directly undertaken by or on behalf of the taxpayer, and related to the business; or

(b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research and experimental development carried on outside Canada related to the business provided that the taxpayer is entitled to exploit the results of such scientific research and experimental development."

(8) Subsection 37(5) of the said Act is repealed and the following substituted therefor:

Idem

"(5) Where in respect of an expenditure on scientific research and experimental development made by a taxpayer in a taxation year an amount is otherwise deductible under this section and under section 110.1 or 118.1, no deduction may be made in respect of the expenditure under section 110.1 or 118.1 in computing the taxable income of, or the tax payable by, the taxpayer for any taxation year."

(9) Subsection 37(6) of the said Act is repealed and the following substituted therefor:

Expenditures of a Capital Nature

"(6) An amount claimed under subsection (1) that may reasonably be considered to be in respect of a property described in paragraph (1)(b) shall, for the purpose of section 13, be deemed to be an amount allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a), and for that purpose the property shall be deemed to be of a separate prescribed class."

(10) All that portion of subsection 37(6.1) of the said Act preceding subparagraph (a)(ii) thereof is repealed and the following substituted therefor:

Amount referred to in paragraph (1)(h)

"(6.1) Where a taxpayer is a corporation control of which was last acquired by a person or group of persons at any time (in this subsection referred to as "that time") before the end of a taxation year of the corporation, the amount determined for the purposes of paragraph (1)(h) for the year with respect to the corporation is the amount, if any, by which

(a) the amount, if any, by which

(i) the aggregate of all amounts each of which is

(A) an expenditure described in paragraph (1)(a) or (c) that was made by the corporation before that time,

(B) the lesser of the amounts determined in respect of the corporation under subparagraphs (1)(b)(i) and (ii) immediately before that time, or

(C) an amount determined in respect of the corporation under paragraph (1)(c.1) for its taxation year ending immediately before that time

exceeds the aggregate of all amounts each of which is"

(11) All that portion of subparagraph 37(6.1)(b)(i) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(i) where the business to which the amounts described in clauses (a)(i)(A), (B) or (C) may reasonably be considered to have been related was carried on by the corporation for profit or with a reasonable expectation of profit throughout the year, the aggregate of"

(12) Subsection 37(7) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof, by repealing paragraph (d) thereof, and by substituting the following therefor:

"(d) for greater certainty, references to scientific research and experimental development related to a business include any scientific research and experimental development that may lead to or facilitate an extension of that business;"

(13) Subsection 37(7) of the said Act is further amended by adding thereto the following paragraph:

"(e) except in the case of a taxpayer that derives all or substantially all of his revenue from the prosecution of scientific research and experimental development (including the sale of rights arising out of scientific research and experimental development carried on by him), the prosecution of scientific research and experimental development shall not be considered to be a business of the taxpayer to which scientific research and experimental development is related; and"

(14) Subsection 37(7) of the said Act is further amended by adding thereto the following paragraph:

"(f) notwithstanding paragraph (c), references to expenditures on or in respect of scientific research and experimental development shall not include

(i) any capital expenditure made in respect of the acquisition of a building, other than a prescribed special purpose building, including a leasehold interest therein,

(ii) any rental expense incurred in respect of a building other than a prescribed special purpose building, and

(iii) payments made by a taxpayer to

(A) a corporation resident in Canada and exempt from tax under paragraph 149(1)(j), an approved research institute, or an approved association, with which the taxpayer does not deal at arm's length,

(B) a corporation other than a corporation referred to in clause (A), or

(C) an approved university, college, or organization

to be used for scientific research and experimental development

(D) in the case of such a payment to a person described in clause (A) or (B), to the extent that the amount of the payment may reasonably be considered to have been made to enable the recipient to acquire a building or a leasehold interest in a building or to pay an amount in respect of the rental expense in respect of a building, and

(E) in the case of a payment to a person described in clause (C), to the extent that the amount of the payment may reasonably be considered to have been made to enable the recipient to acquire a building, or a leasehold interest in a building, in which the taxpayer has, or may reasonably be expected to acquire, an interest."

(15) Subsection (1) is applicable after December 15, 1987, except that with respect to expenditures made before December 16, 1987, or after December 15, 1987 and before 1989

(a) pursuant to

(i) an obligation in writing entered into before December 16, 1987,

(ii) the terms of a prospectus, preliminary prospectus, registration statement or offering memorandum filed before December 16, 1987 with a public authority in Canada pursuant to and in accordance with the securities legislation of any province, or

(iii) the terms of an offering memorandum distributed as part of an offering of securities where

(A) the offering memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering of the securities,

(B) the offering memorandum was distributed before December 16, 1987,

(C) solicitations in respect of the sale of the securities contemplated by the offering memorandum were made before December 16, 1987, and

(D) the sale of the securities was substantially in accordance with the offering memorandum, and provided that, where the expenditure is made after December 15, 1987 by way of a payment made to an entity described in subparagraph 37(1)(a)(ii) as enacted by subsection (1), the scientific research and experimental development to be performed pursuant to that payment is so performed before 1989, and

(b) to an entity described in clause 37(1)(a)(ii)(A), (B) or (C) of the said Act as enacted by subsection (1) as part of a public fund raising campaign commenced on or before December 15, 1987, or after that date pursuant to a settled plan evidenced in writing on or before that date, that may reasonably be considered to be for the purpose of funding the acquisition by the entity of a building which was under construction by or on behalf of the entity on December 16, 1987, or of property necessary for the equipment of such a building for the purpose for which that building was intended,

subsection 37(1) of the said Act shall be read as it read before the enactment of subsection (1).

(16) Subsections (2) and (3) are applicable with respect to expenditures made after April, 1988.

(17) Paragraph 37(1)(e) of the said Act, as enacted by subsection (4), is applicable to the 1988 and subsequent taxation years, and for taxation years ending after 1984 and before 1988, the reference to "paragraph 127(10.1)(c)" in paragraph 37(1)(e) of the said Act, as it was before the enactment of subsection (4), shall be read as "the definition "qualified expenditure" in subsection 127(9),".

(18) Paragraph 37(1)(f) of the said Act, as enacted by subsection (4), is applicable with respect to deductions claimed in computing income for taxation years ending after December 15, 1987.

(19) Subsections (5), (6) and (9) to (12) are applicable after December 15, 1987.

(20) Subsections (7) and (13) are applicable with respect to expenditures made after December 15, 1987 other than expenditures made after that date and before 1989 pursuant to

(a) an obligation in writing entered into before December 16, 1987;

(b) the terms of a prospectus, preliminary prospectus, offering memorandum or registration statement filed before December 16, 1987 with a public authority in Canada pursuant to and in accordance with the securities legislation of any province; or

(c) the terms of an offering memorandum distributed as part of an offering of securities where

(i) the offering memorandum contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering of the securities,

(ii) the offering memorandum was distributed before December 16, 1987,

(iii) solicitations in respect of the sale of the securities contemplated by the offering memorandum were made before December 16, 1987, and

(iv) the sale of the securities was substantially in accordance with the offering memorandum.

(21) Subsection (8) is applicable to the 1988 and subsequent taxation years.

(22) Subsection (14) is applicable with respect to

(a) buildings and leasehold interests acquired after 1987 other than a building or leasehold interest acquired before 1990

(i) pursuant to an obligation in writing entered into before June 18, 1987, or

(ii) the construction of which was commenced before June 18, 1987 by or on behalf of the taxpayer,

(b) rental expenses incurred after 1987, other than such rental expenses incurred pursuant to a written lease agreement renewed, extended or entered into before June 18, 1987 by the taxpayer or a person with whom the taxpayer did not deal at arm's length at the time the lease was renewed, extended or entered into, and

(c) payments described in subparagraph 37(7)(f)(iii) of the said Act, as enacted by subsection (14), made after December 15, 1987 other than payments made pursuant to an agreement in writing entered into before December 16, 1987 with a person with whom the taxpayer deals at arm's length.

16.(1) Section 38 of the said Act is repealed and the following substituted therefor:

Taxable capital gain and allowable capital loss

"38. For the purposes of this Act,

(a) a taxpayer's taxable capital gain for a taxation year from the disposition of any property is 3/4 of his capital gain for the year from the disposition of that property;

(b) a taxpayer's allowable capital loss for a taxation year from the disposition of any property is 3/4 of his capital loss for the year from the disposition of that property; and

(c) a taxpayer's allowable business investment loss for a taxation year from the disposition of any property is 3/4 of his business investment loss for the year from the disposition of that property."

(2) Subsection (1) is applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the references to "3/4" in section 38 of the said Act, as enacted by subsection (1), shall be read as references to "2/3";

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the references to "3/4" in section 38 of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the references to "3/4" in section 38 of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as references to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year.

17.(1) Clause 39(1)(a)(i.1)(A) of the said Act is repealed and the following substituted therefor:

"(A) in the case of a gift to which subsection 118.1(5) applies, within 15 months after the death of the taxpayer or such longer period as is reasonable in the circumstances, and"

(2) All that portion of paragraph 39(9)(b) of the said Act preceding subparagraph (ii) thereof is repealed and the following substituted therefor:

"(b) the amount, if any, by which the total of

(i) the aggregate of all amounts each of which is twice the amount deducted by the taxpayer under section 110.6 in computing his taxable income for a preceding taxation year ending before 1988, (i.1) the aggregate of all amounts each of which is 3/2 of the amount deducted by the taxpayer under section 110.6 in computing his taxable income for a preceding taxation year ending after 1987 and before 1990, and

(i.2) the aggregate of all amounts each of which is 4/3 of the amount deducted by the taxpayer under section 110.6 in computing his taxable income for a preceding taxation year ending after 1989

exceeds"

(3) All that portion of paragraph 39(10)(b) of the said Act preceding subparagraph (ii) thereof is repealed and the following substituted therefor:

"(b) the amount, if any, by which the total of

(i) the aggregate of all amounts each of which is twice the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year ending before 1988,

(i.1) the aggregate of all amounts each of which is 3/2 of the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year ending after 1987 and before 1990, and

(i.2) the aggregate of all amounts each of which is 4/3 of the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for a preceding taxation year ending after 1989

exceeds"

(4) Subsections (1) to (3) are applicable to the 1988 and subsequent taxation years.

18.(1) Subparagraph 40(1)(a)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) subject to subsection (1.1), such amount as he may claim,

(A) in the case of an individual (other than a trust) in prescribed form filed with his return of income under this Part for the year, and

(B) in any other case, in his return of income under this Part for the year,

as a deduction, not exceeding the lesser of

(C) a reasonable amount as a reserve in respect of such of the proceeds of disposition of the property that are not due to him until after the end of the year as may reasonably be regarded as a portion of the amount determined under subparagraph (i) in respect of the property, and

(D) an amount equal to the product obtained when 1/5 of the amount determined under subparagraph (i) in respect of the property is multiplied by the amount, if any, by which 4 exceeds the number of preceding taxation years of the taxpayer ending after the disposition of the property; and"

(2) All that portion of subsection 40(3) of the said Act following subparagraph (b)(ii) thereof is repealed and the following substituted therefor:

"the amount of the excess shall be deemed to be a gain of the taxpayer for the year from a disposition at that time of that property and for the purposes of section 110.6, that property shall be deemed to have been disposed of by him in the year."

(3) Subsections (1) and (2) are applicable to the 1988 and subsequent taxation years.

19.(1) Subsection 41(1) of the said Act is repealed and the following substituted therefor:

Taxable net gain from disposition of listed personal property

"41.(1) For the purposes of this Part, a taxpayer's taxable net gain for a taxation year from dispositions of listed personal property is 3/4 of the amount determined under subsection (2) to be his net gain for the year from dispositions of such property."

(2) Subsection (1) is applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the reference to "3/4" in subsection 41(1) of the said Act, as enacted by subsection (1), shall be read as a reference to "2/3";

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "3/4" in subsection 41(1) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "3/4" in subsection 41(1) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year.

20.(1) Section 42 of the said Act is repealed and the following substituted therefor:

"Dispositions subject to warranty"

"42. In computing a taxpayer's proceeds of disposition of any property for the purposes of this subdivision, there shall be included all amounts received or receivable by the taxpayer as consideration for warranties, covenants or other conditional or contingent obligations given or incurred by the taxpayer in respect of the disposition, and in computing the taxpayer's income for the taxation year in which the property was disposed of and for each subsequent taxation year, any outlay or expense made or incurred by the taxpayer in any such year pursuant to or by reason of any such obligation shall be deemed to be a loss of the taxpayer for such year from a disposition of a capital property and for the purposes of section 110.6, that capital property shall be deemed to have been disposed of by him in such year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

21.(1) Subparagraphs 45(1)(a)(i) and (ii) of the said Act are repealed and the following substituted therefor:

"(i) having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income, or

(ii) having acquired property for the purpose of gaining or producing income, has commenced at a later time to use if for some other purpose,"

(2) Paragraph 45(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) where property has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income and in part for some other purpose, the taxpayer shall be deemed to have acquired, for that other purpose, the proportion of the property that the use regularly made of the property for that other purpose is of the whole use regularly made of the property at a cost to him equal to the same proportion of the cost to him of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for that other purpose shall be deemed to be the same proportion of the proceeds of disposition of the whole property; and"

(3) All that portion of paragraph 45(1)(c) of the said Act preceding subparagraph (ii) thereof is repealed and the following substituted therefor:

> "(c) where, at any time after a taxpayer has acquired property, there has been a change in the relation between the use regularly made by him of the property for gaining or producing income and the use regularly made of the property for other purposes,"

(4) All that portion of subsection 45(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Election re principal residence

> "(3) Where at any time a property that was acquired by a taxpayer for the purpose of gaining or producing income ceases to be used for that purpose and becomes the principal residence of the taxpayer, subsection (1) shall not apply to deem the taxpayer to have disposed of the property at that time and to have reacquired it immediately thereafter if he so elects by notifying the Minister in writing on or before the earlier of"

(5) Subsections (1) to (4) are applicable with respect to changes in use occurring after April, 1988.

22.(1) Subsection 47(2) of the said Act is repealed and the following substituted therefor:

Where identical properties are bonds, etc.

> "(2) For the purposes of subsection (1), where a group of identical properties referred to in that subsection is a group of identical bonds, debentures, bills, notes or similar obligations issued by a debtor, subparagraph (1)(b)(ii) shall be read as follows:
>
>> "(ii) the quotient obtained when the aggregate of the principal amounts of all such identical properties owned by the taxpayer immediately after the particular time is divided by the principal amount of the identical property.""

(2) Subsection 47(3) of the said Act is repealed.

(3) Subsections (1) and (2) are applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

23.(1) All that portion of subsection 49(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"Where option to acquire exercised"

"(3) Where an option to acquire property is exercised so that property is disposed of by a taxpayer (in this subsection referred to as the "vendor") or so that property is acquired by another taxpayer (in this subsection referred to as the "purchaser"), for the purpose of computing the income of each such taxpayer the granting of the option and the exercise thereof shall be deemed not to be dispositions of property and there shall be included"

(2) Paragraph 49(4)(a) of the said Act is repealed and the following substituted therefor:

"(a) an option granted by a taxpayer in a taxation year (in this subsection referred to as the "initial year") is exercised in a subsequent taxation year (in this subsection referred to as the "subsequent year"),"

(3) Subsections (1) and (2) are applicable with respect to dispositions of property under options exercised after 1987.

24.(1) All that portion of paragraph 53(1)(c) of the said Act preceding paragraph (i) thereof is repealed and the following substituted therefor:

"(c) where the property is a share of the capital stock of a corporation and the taxpayer has, after 1971, made a contribution of capital to the corporation otherwise than by way of a loan, by way of a disposition of shares of a foreign affiliate of the taxpayer to which subsection 85.1(3) or paragraph 95(2)(c) applies or, subject to subsection (1.1), a disposition of property in respect of which the taxpayer and the corporation have made an election under section 85, that proportion of such part of the amount of the contribution as cannot reasonably be regarded as a benefit conferred by the taxpayer on a person (other than the corporation) who was related to the taxpayer that"

(2) Clause 53(1)(e)(i)(A) of the said Act is repealed and the following substituted therefor:

"(A) the fractions set out in subsection 14(5), paragraph 38(a) and subsection 41(1),"

(3) Subparagraph 53(1)(e)(iv) of the said Act is repealed and the following substituted therefor:

> "(iv) where the taxpayer has, after 1971, made a contribution of capital to the partnership otherwise than by way of loan, such part of the amount of the contribution as cannot reasonably be regarded as a benefit conferred on any other member of the partnership who was related to the taxpayer,"

(4) Subparagraph 53(1)(h)(i) of the said Act is repealed and the following substituted therefor:

> "(i) interest on debt relating to the acquisition of land, or an amount payable by him for the land, or"

(5) All that portion of paragraph 53(1)(h) of the said Act following subparagraph (ii) thereof is repealed and the following substituted therefor:

> "to the extent that that amount was not deductible by reason of subsection 18(2) in computing his income from the land or from a business for any taxation year commencing before that time or, by reason of subsection 18(3), in computing the income of another taxpayer in respect of whom he was a person, corporation or partnership described in clause 18(3)(b)(ii)(A), (B) or (C), where that amount was not included in the cost to that other taxpayer of any property."

(6) Clause 53(2)(c)(i)(A) of the said Act is repealed and the following substituted therefor:

> "(A) the fractions set out in subsection 14(5), and paragraph 38(b),"

(7) Subparagraph 53(2)(c)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) any amount deemed by subsection 110.1(4) or 118.1(8) to have been a gift made, or by subsection 127(4.2) to have been an amount contributed, by the taxpayer by reason of his membership in the partnership at the end of a fiscal period of the partnership ending before that time,"

(8) Paragraph 53(2)(c) of the said Act is amended by striking out the word "and" at the end of subparagraph (viii) thereof, by adding the word "and" at the end of subparagraph (ix) thereof and by adding thereto the following subparagraph:

"(x) any amount deductible by the taxpayer under subparagraph 20(1)(e)(vi) in respect of the partnership for a taxation year of the taxpayer ending at or after that time;"

(9) Clause 53(2)(k)(i)(A) of the said Act is repealed and the following substituted therefor:

"(A) an amount described in paragraph 37(1)(d),"

(10) Subsections (1) and (3) are applicable with respect to contributions of capital occurring after June, 1988 in computing the adjusted cost base of property after June, 1988.

(11) Subsections (2), (5) and (6) are applicable to the 1988 and subsequent taxation years.

(12) Subsection (4) is applicable with respect to expenses incurred in the 1988 and subsequent taxation years.

(13) Subsection (7) applies with respect to gifts made and amounts contributed by partnerships in fiscal periods of partnerships ending after 1987.

(14) Subsection (8) is applicable after 1987.

(15) Subsection (9) is applicable with respect to expenditures made after April, 1988.

25.(1) Paragraph 54(d) of the said Act is repealed and the following substituted therefor:

"(d) "eligible capital property" of a taxpayer means any property, a part of the consideration for the disposition of which would, if he disposed of the property, be an eligible capital amount in respect of a business;"

(2) Subparagraph 54(g)(i) of the said Act is repealed and the following substituted therefor:

"(i) ordinarily inhabited in the year by the taxpayer, by the taxpayer's spouse or former spouse, or by a child of the taxpayer, or"

(3) Subsection (1) is applicable after June 17, 1987.

(4) Subsection (2) applies to the 1988 and subsequent taxation years.

26.(1) The said Act is further amended by adding thereto, immediately after section 54.1, the following section:

Certain shares deemed to be capital property

"54.2. Where any person has disposed of property that consisted of all or substantially all of the assets used in an active business carried on by that person to a corporation for consideration that included shares of the corporation, the shares shall be deemed to be capital property of the person."

(2) Subsection (1) is applicable with respect to dispositions occurring after 1987.

27.(1) Subsection 55(1) of the said Act is repealed.

(2) Subparagraph 55(5)(b)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) the amount, if any, by which the aggregate of the taxable capital gains of the corporation for the period exceeds the aggregate of its allowable capital losses for the period, and"

(3) Subparagraph 55(5)(b)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) the aggregate of all amounts each of which is an amount in respect of a business carried on by the corporation at any time in the period, equal to the amount, if any, by which the aggregate of
>
> > (A) where the period commenced before the corporation's adjustment time (within the meaning assigned by subsection 14(5) and referred to in this subparagraph as the corporation's "adjustment time"), the amount, if any, by which
> >
> > > (I) the aggregate of the amounts in respect of the business required to be included in the calculation of the corporation's cumulative eligible capital by reason of subparagraph 14(5)(a)(iv) with respect to that portion of the period preceding its adjustment time

exceeds the aggregate of

(II) the cumulative eligible capital of the corporation in respect of the business at the commencement of the period,

(III) 1/2 of the aggregate of the eligible capital expenditures in respect of the business that were made or incurred by the corporation during that portion of the period preceding its adjustment time, and

(IV) to the extent that the amount determined under subclause (I) exceeds the aggregate of the amounts determined under subclauses (II) and (III), 1/2 of the aggregate of the eligible capital expenditures in respect of the business that were made or incurred by the corporation during that portion of the period following its adjustment time,

(B) 1/3 of the aggregate of the amounts in respect of the business required to be included in the calculation of the corporation's cumulative eligible capital by reason of subparagraph 14(5)(a)(iv) with respect to that portion of the period following its adjustment time, and

(C) 1/3 of all amounts received in the period that were required to be included in the corporation's income by reason of paragraph 12(1)(i.1)

exceeds the aggregate of

(D) where the period commenced after the corporation's adjustment time, 1/3 of the cumulative eligible capital of the corporation in respect of the business at the commencement of the period,

(E) 1/4 of the aggregate of the eligible capital expenditures in respect of the business made or incurred by the corporation with respect to that portion of the period after its adjustment time and a portion of which were not included in subclause (A)(IV),

(F) where the period commenced before the corporation's adjustment time, 1/2 of the amount, if any, by which the aggregate of the amounts determined in respect of the corporation under subclauses (A)(II) and (III) exceeds the amount determined in respect of the corporation under subclause (A)(I); and

(G) 1/3 of all amounts deducted by the corporation under subsection 20(4.2) in respect of debts established by it to have become bad debts during the period;"

(4) Subsection (1) is applicable with respect to transactions entered into on or after the day on which this Act is assented to other than transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the said Act, commencing before the day on which this Act is assented to and completed before 1989.

(5) Subsection (2) is applicable to the 1988 and subsequent taxation years.

(6) Subsection (3) is applicable after June 17, 1987, except that, with respect to amounts included in the calculation of a corporation's income by reason of paragraph 12(1)(i.1) or subsection 20(4.2) of the said Act, as enacted by subsections 4(2) and 12(11) respectively of this Act, relating to an amount owing in respect of a disposition of property occurring in a taxation year of the corporation commencing before July, 1988, clauses 55(5)(b)(iii)(C) and (G) of the said Act, as enacted by subsection (3), shall be read without reference to the words "1/3 of".

28.(1) Subsection 56(3) of the said Act is repealed.

(2) Section 56 of the said Act is further amended by adding thereto the following subsections:

Interest free or low interest loans

"(4.1) Where an individual has loaned property, directly or indirectly by means of a trust or by any means whatever, to another individual with whom he was not dealing at arm's length and it may reasonably be considered that one of the main reasons for the loan was to reduce or avoid tax by causing income from the property or property substituted therefor to be included in the income of the other individual, any income for a taxation year from the property or from property substituted therefor that relates to the period or periods of the year throughout which the individual was resident in Canada and was not dealing at arm's length with the other individual, shall be deemed to be income of the individual and not of the other individual except to the extent that section 74.1 otherwise deems the income to be income of the individual.

Loans for value

(4.2) Notwithstanding any other provision of this Act, subsection (4.1) does not apply to any income derived in a particular taxation year from loaned property or from property substituted therefor if

(a) interest was charged on the loan at a rate equal or greater than the lesser of

(i) the rate prescribed for the purposes of subsection 161(1) that was in effect at the time the loan was made; and

(ii) the rate that would, having regard to all circumstances, have been agreed upon, at the time the loan was made, between parties dealing with each other at arm's length;

(b) the amount of interest that was payable in respect of the particular year in respect of the loan was paid not later than 30 days after the end of the particular year; and

(c) the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the loan was paid not later than 30 days after the end of each such taxation year.

Repayment of existing indebtedness

(4.3) For the purposes of subsection (4.1), where, at any time, an individual has loaned property (in this subsection referred to as the "loaned property") either directly or indirectly, by means of a trust or by any other means whatever, to a person, and the loaned property or property substituted therefor is used

(a) to repay, in whole or in part, borrowed money with which other property was acquired, or

(b) to reduce an amount payable for other property, there shall be included in computing the income from the loaned property, or from property substituted therefor, that is so used, that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the fair market value at that time of the loaned property, or property substituted therefor, that is so used is of the cost to that person of the other property at the time of its acquisition, but for greater certainty nothing in this subsection shall affect the application of subsection (4.1) to any income or loss derived from the other property or from property substituted therefor."

(3) Subsections 56(5) to (8) of the said Act are repealed and the following substituted therefor:

Family allowances

"(5) An individual who is deemed by subsection (6) or (7) to have supported in a taxation year a person, in respect of whom

(a) a family allowance under the Family Allowances Act, 1973, or

(b) an allowance under a law of a province that provides for payment of an allowance similar to the family allowance provided under the Family Allowances Act, 1973

is paid in the year, shall include in computing his income for the year an amount equal to the aggregate of all amounts each of which is such an allowance received in the year by the individual or by the individual's spouse.

Deemed support

(6) For the purposes of subsection (5), an individual shall be deemed to have supported a person in a taxation year if

(a) the person is a child of the individual or of the individual's spouse or is dependent in the year on the individual or on the individual's spouse for support;

(b) the individual's income for the year (computed without reference to subsection (5) and section 63) exceeds that of the spouse; and

(c) the spouse, was not, by reason of a breakdown of their marriage, living separate and apart from the individual at the end of the year and for a period of at least 90 days commencing in the year.

Idem

(7) Where no individual is deemed under subsection (6) to have supported in a taxation year a person in respect of whom an allowance referred to in subsection (5) has been paid in the year, the individual to whom that allowance was paid shall, for the purposes of subsection (5), be deemed to have supported the person in the year."

(4) Subsection (1) is applicable with respect to transactions entered into on or after the day on which this Act is assented to other than transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the said Act, commencing before the day on which this Act is assented to and completed before 1989.

(5) Subsection (2) is applicable to the 1989 and subsequent taxation years.

(6) Subsection (3) is applicable to the 1988 and subsequent taxation years.

29.(1) All that portion of paragraph 59(3.3)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

> "(a) 33 1/3% of the aggregate of all amounts, each of which is the stated percentage of"

(2) All that portion of paragraph 59(3.3)(a) of the said Act following subparagraph (iii) thereof is repealed and the following substituted therefor:

> "and in respect of which the consideration given by the taxpayer was a property (other than a share, depreciable property of a prescribed class or a Canadian resource property) or services the cost of which may reasonably be regarded as having been an expenditure that was added in computing the earned depletion base of the taxpayer or in computing the earned depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor;"

(3) All that portion of paragraph 59(3.3)(b) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(b) 33 1/3% of the aggregate of all amounts, each of which is the stated percentage of an amount in respect of a disposition of depreciable property of a prescribed class (other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length) of the taxpayer after December 11, 1979 and in the year, the capital cost of which was added in computing the earned depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the earned depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor, that is equal to the lesser of"

(4) All that portion of paragraph 59(3.3)(c) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(c) 33 1/3% of the aggregate of all amounts, each of which is an amount in respect of a disposition of depreciable property of a prescribed class that is bituminous sands equipment (other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length) of the taxpayer after December 11, 1979 and before 1990 and in the year, the capital cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the supplementary depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor, that is equal to the lesser of"

(5) All that portion of paragraph 59(3.3)(d) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(d) 50% of the aggregate of all amounts, each of which is an amount in respect of a disposition of depreciable property of a prescribed class that is enhanced recovery equipment (other than a disposition of such property that had been used by the taxpayer to any person with whom the taxpayer was not dealing at arm's length) of the taxpayer after December 11, 1979 and before 1990 and in the year, the capital cost of which was added in computing the supplementary depletion base of the taxpayer or of a person with whom he was not dealing at arm's length or in computing the supplementary depletion base of a predecessor where the taxpayer is a successor corporation to the predecessor, that is equal to the lesser of"

(6) Paragraphs 59(3.3)(e) and (f) of the said Act are repealed and the following substituted therefor:

"(e) 66 2/3% of the aggregate of all amounts, each of which is an amount that became receivable by the taxpayer after December 11, 1979 and before 1990 and in the year and in respect of which the consideration given by the taxpayer was a property (other than a share or a Canadian resource property) or services the cost of which may reasonably be regarded as having been an expenditure in connection with an oil or gas well in respect of which an amount was included in computing the taxpayer's frontier exploration base or in computing the frontier exploration base of a predecessor where the taxpayer is a successor corporation to the predecessor; and

(f) 33 1/3% of the aggregate of all amounts, each of which is the stated percentage of an amount that became receivable by the taxpayer after April 19, 1983 and in the year and in respect of which the consideration given by the taxpayer was a property (other than a share, depreciable property of a prescribed class or a Canadian resource property) or services the cost of which may reasonably be regarded as having been an expenditure that was included in computing the mining exploration depletion base of the taxpayer or in computing the mining exploration depletion base of a specified predecessor of the taxpayer."

(7) Subsection 59(3.4) of the said Act is amended by adding thereto, immediately after paragraph (a) thereof, the following subsection:

"stated percentage"

"(b) "stated percentage" means

(i) in respect of an amount described in paragraph (3.3)(a) or (f) that became receivable by a taxpayer

(A) 100% where the amount became receivable before July, 1988,

(B) 50% where the amount became receivable after June, 1988 and before 1990, and

(C) 0% where the amount became receivable after 1989, and

(ii) in respect of the disposition described in paragraph (3.3)(b) of a depreciable property of a taxpayer

(A) 100% where the property was disposed of before July, 1988,

(B) 50% where the property was disposed of after June, 1988 and before 1990, and

(C) 0% where the property was disposed of after 1989;"

(8) Section 59 of the said Act is further amended by adding thereto, immediately after subsection (3.4) thereof, the following subsection:

Variation of stated percentage

"59(3.5) Notwithstanding paragraph (3.4)(b), where

(a) an amount became receivable by a taxpayer within 60 days after the end of 1989 in respect of a disposition of property or services, and

(b) the person to whom the disposition was made is a corporation that, before the end of 1989, had issued, or had undertaken to issue, a flow-through share and the corporation renounces under subsection 66(12.66), effective on December 31, 1989, an amount in respect of Canadian exploration expenses that includes an expenditure in respect of the amount referred to in paragraph (a),

the stated percentage in respect of the amount described in paragraph (a) shall be 50%."

(9) Subsections (1) to (8) are applicable to the 1988 and subsequent taxation years.

30.(1) Paragraphs 60(e), (f), (g) and (h) of the said Act are repealed.

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

31.(1) Subparagraph 63(2)(b)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) a person in full-time attendance at a designated educational institution (within the meaning assigned by subsection 118.6(1),"

(2) Subparagraph 63(2)(b)(vi) of the said Act is repealed and the following substituted therefor:

> "(vi) a person who, by reason of a breakdown of their marriage or similar domestic relationship, was living separate and apart from the taxpayer at the end of the year and for a period of at least 90 days commencing in the year."

(3) Clause 63(3)(a)(ii)(C) of the said Act is repealed and the following substituted therefor:

> "(C) in respect of whom an amount is deducted under section 118 in computing the tax payable under this Part for the year by the taxpayer or by a supporting person of the child,"

(4) Subparagraph 63(3)(a)(iv) of the said Act is repealed and the following substituted therefor:

> "(iv) for greater certainty, any expenses described in subsection 118.2(2) and any other expenses that are incurred for medical or hospital care, clothing, transportation or education or for board and lodging (except as otherwise expressly provided in this paragraph)"

(5) Subparagraph 63(3)(c)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) a child in respect of whom the taxpayer deducted an amount under section 118 for the year,"

(6) Subparagraph 63(3)(d)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) an individual who deducted an amount under section 118 for the year in respect of the child,"

(7) Subsections (1) to (6) are applicable to the 1988 and subsequent taxation years.

32.(1) All that portion of section 63.1 of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:

Application to deemed residents

"63.1 Where a taxpayer is deemed by section 250 to be resident in Canada throughout all or part of a taxation year, in applying sections 62 and 63 in respect of him for the period when he is so deemed to be resident in Canada, the following rules apply:"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

33.(1) Paragraph 66(12.66)(b) of the Act is repealed and the following substituted therefor:

"(b) the Canadian exploration expenses are expenses described in subparagraph 66.1(6)(a)(i), (ii.1) or (iii),"

(2) Section 66 of the said Act is further amended by adding thereto, immediately after subsection (12.73) thereof, the following subsections:

Late filed forms

"(12.74) Where, in the opinion of the Minister, the circumstances of a case are such that it would be just and equitable to permit the filing by a corporation or partnership of a document referred to in subsection (12.68), (12.69) or (12.7), the Minister may permit the filing of such document after the day on or before which the document is required to be filed under the applicable subsection, and such document filed with the Minister pursuant to that permission shall be deemed to have been filed on the day on or before which it was required to be filed

(a) if it is filed within 90 days after that day, and

(b) if the corporation or partnership, as the case may be, pays to the Receiver General at the time of filing a penalty in respect of the late filing.

Penalty

(12.75) For the purposes of subsection (12.74), the penalty in respect of the late filing of a document referred to in subsection (12.68), (12.69) or (12.7) is the lesser of

(a) $15,000, and

(b) 1/4 of 1% of the maximum amount in respect of the Canadian exploration expenses, Canadian development expenses and Canadian oil and gas property expenses renounced, to be renounced, attributed or to be attributed as set out in the document."

(3) Subparagraph 66(15)(e)(iv) of the said Act is repealed and the following substituted therefor:

> "(iv) subject to section 66.8, his share of the foreign exploration and development expenses incurred after 1971 by a partnership in a fiscal period thereof, if at the end of that period he was a member thereof, and"

(4) Subsection (1) is applicable with respect to expenses incurred after 1987, except that an amount in respect of oil or gas expenses renounced under subsection 66(12.66) of the said Act by a corporation on or before the day that is 30 days after the day this Act is assented to shall be deemed to have been renounced within 90 days after the end of 1987.

(5) Subsection (2) is applicable after March 19, 1987, except that, where the document was filed on or before May 15, 1988, subsection 66 (12.74) of the said Act, as enacted by subsection (2), shall be read without reference to paragraphs (a) and (b) thereof.

(6) Subsection (3) is applicable after June 17, 1987.

34.(1) Clause 66.1(6)(a)(ii.1)(D) of the said Act is repealed and the following substituted therefor:

> "(D) there has been filed with the Minister, on or before the day that is 6 months after the end of the month in which the drilling of the well was commenced, a certificate issued by the Minister of Energy, Mines and Resources certifying that, on the basis of evidence submitted to him, he is satisfied that
>
> > (I) the aggregate of expenses incurred and to be incurred in drilling and completing the well, in building a temporary access road to the well and in preparing the site in respect of the well will exceed $5,000,000, and

(II) the well will not produce, otherwise than for a specified purpose, within the period of 24 months commencing on the day the drilling of the well is completed,"

(2) Subparagraph 66.1(6)(a)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) subject to section 66.8, his share of any expense referred to in any of subparagraphs (i), (i.1), (ii), (ii.1), (iii) or (iii.1) incurred by a partnership in a fiscal period thereof, if, at the end of that period he was a member thereof, or"

(3) Section 66.1 of the said Act is further amended by adding thereto the following subsection:

Certificate ceasing to be valid

"(10) A certificate in respect of an oil or gas well issued by the Minister of Energy, Mines and Resources for the purposes of clause (6)(a)(ii.1)(D) shall be deemed never to have been issued and never to have been filed with the Minister if

(a) the well produces, otherwise than for a specified purpose, within the period of 24 months commencing on the day the drilling of the well was completed; or

(b) in applying for the certificate, the applicant, in any material respect, provided any incorrect information or failed to provide information."

(4) Subsections (1) and (3) are applicable after March 1987, except that a certificate referred to in clause 66.1(6)(a)(ii.1)(D) of the said Act, as enacted by subsection (1), that is filed with the Minister of National Revenue within 120 days after this Act is assented to shall be deemed to have been filed on or before the day that is 6 months after the end of the month in which the drilling of the well to which the certificate relates was commenced.

(5) Subsection (2) is applicable after June 17, 1987.

35.(1) Paragraph 66.2(5)(a) of the said Act is amended by adding thereto, immediately after subparagraph (ii) thereof, the following subparagraph:

"(ii.1) any expense incurred by him after 1987

(A) in sinking or excavating a mine shaft, main haulage way or similar underground work designed for continuing use, for a mine in a mineral resource in Canada built or excavated after the mine came into production, or

(B) in extending any such shaft, haulage way or work,"

(2) Subparagraph 66.2(5)(a)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) subject to section 66.8, his share of any expense referred to in any of subparagraphs (i) to (iii) incurred by a partnership in a fiscal period thereof, if, at the end of that period, he was a member thereof, or"

(3) Subsection (1) is applicable with respect to expenses incurred after 1987, other than amounts included in the capital cost of depreciable property.

(4) Subsection (2) is applicable after June 17, 1987.

36.(1) Subparagraph 66.4(5)(a)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) subject to section 66.8, his share of any expense referred to in subparagraph (i) incurred by a partnership in a fiscal period thereof, if at the end of that fiscal period he was a member thereof, or"

(2) Subsection (1) is applicable after June 17, 1987.

37.(1) The said Act is amended by adding thereto, immediately after section 66.7, the following section:

Resource expenses of limited partner

"66.8(1) Where a taxpayer is a limited partner of a partnership at the end of a fiscal period of the partnership, the following rules apply:

(a) determine the amount, if any, by which

(i) the aggregate of all amounts each of which is his share of

(A) the Canadian oil and gas property expenses (in this subsection referred to as "property expenses"),

(B) the Canadian development expenses (in this subsection referred to as "development expenses"),

(C) the Canadian exploration expenses (in this subsection referred to as "exploration expenses"), and

(D) the foreign exploration and development expenses (in this subsection referred to as "foreign expenses"),

incurred by the partnership in the fiscal period determined without reference to this subsection

exceeds

(ii) the amount, if any, by which

(A) the taxpayer's at-risk amount at the end of the fiscal period in respect of the partnership

exceeds

(B) the aggregate of

(I) the amount required by subsection 127(8) in respect of the partnership to be added in computing the investment tax credit of the taxpayer in respect of the fiscal period, and

(II) the taxpayer's share of any losses of the partnership for the fiscal period from a farming business;

(b) the amount determined under paragraph (a) shall be applied

(i) first to reduce his share of property expenses,

(ii) if any remains unapplied, then to reduce his share of development expenses,

(iii) if any remains unapplied, then to reduce his share of exploration expenses, and

(iv) if any remains unapplied, then to reduce his share of foreign expenses, incurred by the partnership in the fiscal period; and

(c) for the purposes of subparagraph 53(2)(c)(ii), sections 66 to 66.7, subsection 96(2.1) and section 111, the taxpayer's share of each class of expenses described in subparagraph (a)(i) incurred by the partnership in the fiscal period shall be deemed to be the amount by which the taxpayer's share of that class of expenses as determined under subparagraph (a)(i) exceeds the amount, if any, that was applied under paragraph (b) to reduce his share of that class of expenses.

Expenses in following fiscal period

(2) For the purposes of subparagraph (1)(a)(i), the amount by which a taxpayer's share of a class of expenses incurred by a partnership is reduced under paragraph (1)(b) in respect of a fiscal period of the partnership shall be added to the taxpayer's share, otherwise determined, of that class of expenses incurred by the partnership in the immediately following fiscal period of the partnership.

Interpretation

(3) In this section,

(a) the expression "at-risk amount" of a taxpayer in respect of a partnership and "limited partner" of a partnership have the meanings assigned by subsections 96(2.2) and (2.4) respectively, except that, with respect to the definition of limited partner, the definition "exempt interest" in subsection 96(2.5) shall be read as though the reference therein to

(i) "February 25, 1986" were a reference to "June 17, 1987",

(ii) "February 26, 1986" were a reference to "June 18, 1987",

(iii) "January 1, 1987" were a reference to "January 1, 1988",

(iv) "June 12, 1986" were a reference to "June 18, 1987", and

(v) "prospectus, preliminary prospectus or registration statement" were read as "prospectus, preliminary prospectus, registration statement, offering memorandum or notice that is required to be filed before any distribution of securities may commence"; and

(b) a reference to a taxpayer who is a member of a particular partnership shall include a reference to another partnership that is a member of the particular partnership."

(2) Subsection (1) is applicable to taxation years ending after June 17, 1987.

38.(1) The said Act is further amended by adding thereto, immediately after section 67 thereof, the following sections:

Expenses for food etc.

"67.1(1) For the purposes of this Act, other than sections 62, 63 and 118.2, an amount paid or payable in respect of the human consumption of food or beverages or the enjoyment of entertainment shall be deemed to be 80% of the lesser of

(a) the amount actually paid or payable in respect thereof; and

(b) an amount in respect thereof that would be reasonable in the circumstances.

Exceptions

(2) Subsection (1) does not apply to an amount paid or payable by a person in respect of the consumption of food or beverages or the enjoyment of entertainment where the amount

(a) is paid or payable for the provision of food, beverages or entertainment in the ordinary course of a business of providing food, beverages or entertainment for reasonable compensation;

(b) relates to a fund-raising event the primary purpose of which is to benefit a registered charity;

(c) is an amount for which the person is compensated and the amount of the compensation is reasonable and specifically identified in writing to the person paying the compensation;

(d) is required to be included in computing the income of an employee of the person or would be so required but for subparagraph 6(6)(a)(ii); or

(e) is incurred by the person for food, beverages or entertainment generally available to all employees of the person at a particular location.

Fees for convention etc.

(3) For the purposes of this section, where a fee paid or payable for a conference, convention, seminar or similar event entitles the participant to food, beverages or entertainment (other than incidental beverages and refreshments made available during the course of meetings or receptions at the event) and a reasonable part of the fee, determined on the basis of the cost of providing the food, beverages and entertainment, has not been identified in the account for the fee as compensation for the food, beverages and entertainment, $50 or such other amount as may be prescribed shall be deemed to be the actual amount paid or payable in respect of food, beverages and entertainment for each day of the event on which food, beverages or entertainment is provided and, for the purposes of this Act the fee for the event shall be deemed to be the actual amount of the fee minus the amount deemed by this subsection to be the actual amount paid or payable for the food, beverages and entertainment.

Interest on money borrowed for passenger vehicle

67.2(1) For the purposes of this Act, where in computing income for a taxation year an amount is otherwise deductible in respect of interest payable on borrowed money used to acquire, or an amount payable for the acquisition of, a passenger vehicle, the amount deductible shall not exceed the amount determined by the formula

$$\frac{A}{30} \times B$$

where

A is $250 or such other amount as may be prescribed; and

B is the number of days in the year in respect of which the interest was payable.

Capital cost of passenger vehicle

(2) For the purposes of this Act, where in computing income for a taxation year an amount is deductible in respect of the capital cost of a passenger vehicle, paragraphs 13(7)(g) and (h) apply in determining the capital cost or cost, as the case may be of the vehicle.

Limitation re motor vehicle expenses

"67.3(1) Notwithstanding any other provision of this Act, in computing the income of an individual (other than a trust) for a taxation year no amount shall be deducted in respect of a motor vehicle in excess of the amount determined by the formula

$$\frac{A}{B} (C + \frac{D}{E} \times F)$$

where

A is the number of kilometres for which the vehicle was used in the year in connection with gaining or producing income;

B is the total number of kilometres travelled by the motor vehicle in the year while it was owned or leased by the individual;

C is the aggregate of the expenses incurred by the individual in the year for fuel for, and maintenance and repair of, the vehicle less the aggregate of all rebates, allowances or reimbursements received by him or to which he is or may become entitled in respect thereof;

D is the lesser of

(a) the value determined for A under this subsection for the year in respect of the vehicle, and

(b) the quotient obtained when the product of 2,000 and the number of days in the year during which the vehicle is used in connection with gaining or producing income is divided by 30;

E is the lesser of

(c) the value determined for B under this subsection for the year in respect of the vehicle, and

(d) the quotient obtained when the product of 2,000 and the number of days in the year during which the vehicle is owned or leased by the individual is divided by 30; and

F is the aggregate of

(e) the expenses incurred by the individual in the year for

(i) licensing or registration of the vehicle, and

(ii) insurance against loss of or damage to the vehicle and liability resulting from its use or operation,

(f) where the vehicle is leased by the individual from a lessor, the cost to the individual of leasing it in the year,

(g) any allowance in respect of the capital cost to the individual of the vehicle as may be allowed under paragraph 20(1)(a), except that where the vehicle is a passenger vehicle, paragraphs 13(7)(g) and (h) apply in determining for the purpose of this paragraph its capital cost or cost, as the case may be, to the individual, and

(h) interest payable in respect of the year on borrowed money used to acquire, or an amount payable for the acquisition of, the vehicle.

Limitation re cost of leasing passenger vehicle

(2) Notwithstanding any other provision of this Act, where

(a) a taxpayer leases a passenger vehicle from a lessor in a taxation year, and

(b) in computing the taxpayer's income for the year an amount may be deducted in respect of the vehicle,

in determining the amount that may be so deducted the cost to the individual of leasing the vehicle shall not exceed the lesser of

(c) the amount determined by the formula

$$\left(\frac{A \times B}{30}\right) - C - D$$

where

A is $600 or such other amount as may be prescribed, B is the number of days during which the vehicle was leased by the taxpayer from the lessor in the year or a preceding taxation year,

C is the aggregate of all amounts deducted in computing the taxpayer's income for a preceding taxation year in respect of the lease of the vehicle, and

D is the amount of interest that would be earned on that part of all refundable amounts paid by or on behalf of the taxpayer in respect of the lease that exceeds $1,000 if interest were

(i) payable on the refundable amounts at the prescribed rate that would be applicable if the amounts were amounts payable under this Act, and

(ii) computed for the period in the year during which the refundable amounts are outstanding; and

(d) the amount determined by the formula

$$\left(\frac{A \times B}{.85C}\right) - D$$

where

A is the aggregate of the actual lease charges payable to the lessor by the taxpayer for the lease of the vehicle during the year,

B is $20,000 or such other amount as may be prescribed,

C is the greater of $23,529 (or such other amount as may be prescribed) and the aggregate of

(i) the manufacturer's list price for the vehicle, and

(ii) the provincial sales tax, if any, that would have been payable by a purchaser of the vehicle if it had been purchased at the manufacturer's list price for the vehicle at the time the first lease of the vehicle was entered into and in the province under the laws of which the vehicle was registered for the greatest part of the year, and

D is the amount of interest that would be earned on that part of any refundable amounts paid by or on behalf of the taxpayer in respect of the lease that exceeds $1,000 if interest were

(i) payable on the refundable amounts at the prescribed rate that would be applicable if the amounts were amounts payable under this Act, and

(ii) computed for the period in the year during which the refundable amounts are outstanding.

More than one owner or lessor

67.4 Where 2 or more persons jointly own or lease a motor vehicle, the aggregate of all amounts that may be deducted in respect of the vehicle in computing the incomes for a taxation year of those persons shall not exceed the maximum amount that would be deductible in respect of the vehicle in computing the income for the year of any one of those persons if that person had been the only person who had owned or leased the vehicle in the year."

(2) Subsections 67.1(1) and (2) of the said Act, as enacted by subsection (1), are applicable with respect to amounts incurred after June 17, 1987 in respect of food and beverages consumed and entertainment enjoyed after 1987.

(3) Subsection 67.1(3) of the said Act, as enacted by subsection (1), is applicable with respect to amounts incurred after June, 1988.

(4) Sections 67.2, 67.3 and 67.4 of the said Act, as enacted by subsection (1), are applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

39.(1) Section 68 of the said Act is repealed and the following substituted therefor:

Allocation of amounts in consideration for disposition of property

"68. Where an amount received or receivable from a person can reasonably be regarded as being in part the consideration for the disposition of a particular property of a taxpayer or as being in part consideration for the provision of services by a taxpayer,

(a) the part of the amount that can reasonably be regarded as being the consideration for the disposition shall be deemed to be proceeds of disposition of the particular property irrespective of the form or legal effect of the contract or agreement and the person shall be deemed to have acquired it for an amount equal to that part; and

(b) the part of the amount that can reasonably be regarded as being consideration for the provision of services shall be deemed to be an amount received or receivable by the taxpayer in respect of those services irrespective of the form or legal effect of the contract or agreement and that part shall be deemed to be an amount paid or payable to the taxpayer by the person in respect of those services."

(2) Subsection (1) is applicable with respect to amounts received or receivable after June, 1988 otherwise than pursuant to agreements in writing entered into before May, 1988.

40.(1) Paragraph 69(13)(b) of the said Act is repealed and the following substituted therefor:

"(b) in the case of eligible capital property, an amount equal to 4/3 of the cost amount to the corporation of such property immediately before the amalgamation or merger; and"

(2) Subsection (1) is applicable with respect to an amalgamation or merger of a corporation occurring after the commencement of its first taxation year commencing after June, 1988.

41.(1) Paragraph 70(2)(c) of the said Act is repealed and the following substituted therefor:

"(c) subject to sections 114.2 and 118.12, that other person were entitled to the deductions to which the taxpayer was entitled under sections 110, 118 to 118.7 and 118.9 for the year in computing his taxable income or tax payable under this Part, as the case may be, for the year."

(2) Paragraphs 70(5.1)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) the taxpayer shall be deemed to have disposed, immediately before his death, of the property and to have received proceeds of disposition therefor in respect of a business carried on by him equal to 4/3 of the cumulative eligible capital in respect of the business at that time; and

(b) the person who has so acquired the property shall be deemed to have acquired a capital property, immediately after the death of the taxpayer, at a cost equal to the proceeds of disposition referred to in paragraph (a) except that, where the person continues to carry on the business previously carried on by the taxpayer, the person shall be deemed to have acquired an eligible capital property and to have made an eligible capital expenditure at a cost equal to the aggregate of

(i) the proceeds of disposition referred to in paragraph (a), and

(ii) the amount, if any, determined under subparagraph 14(5)(a)(v) in respect of the business of the taxpayer at that time,

and, for the purposes of determining at any time the person's cumulative eligible capital in respect of the business, an amount equal to the amount determined under subparagraph (ii) shall be added to the amount otherwise determined under clause 14(5)(a)(v)(A)."

(3) Subparagraph 70(10)(a)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) a person who, at any time before he attained the age of 19 years, was wholly dependent on the taxpayer for support and of whom the taxpayer had, at that time, in law or in fact, the custody and control;"

(4) Subsections (1) and (3) are applicable to the 1988 and subsequent taxation years.

(5) Subsection (2) is applicable with respect to acquisitions occurring as a consequence of the death of a taxpayer after the commencement of the first fiscal period of the taxpayer's business commencing after 1987.

42.(1) All that portion of subparagraph 72(2)(b)(ii) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(ii) for the purpose of computing the transferee's income for his first taxation year ending after the death of the taxpayer and any subsequent taxation year, be deemed to have been"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years in respect of properties disposed of after 1984.

43.(1) Clause 73(3)(b.1)(ii)(B) of the said Act is repealed and the following substituted therefor:

"(B) 4/3 of the taxpayer's cumulative eligible capital in respect of the business immediately before the time of the transfer,"

(2) Paragraph 73(3)(d.1) of the said Act is repealed and the following substituted therefor:

"(d.1) where the property transferred was eligible capital property of the taxpayer, the child shall be deemed to have acquired a capital property, immediately after the transfer, at a cost equal to the proceeds of disposition determined under paragraph (b.1) except that, where the child continues to carry on the business previously carried on by the taxpayer, his spouse or any of his children, he shall be deemed to have acquired an eligible capital property and to have made an eligible capital expenditure at a cost equal to the aggregate of

(i) the proceeds of disposition referred to in paragraph (b.1), and

(ii) the amount, if any, by which

(A) the amount, if any, determined under subparagraph 14(5)(a)(v) in respect of the business of the taxpayer immediately before the time of the transfer

exceeds

(B) the amount, if any, included in the income of the taxpayer by reason of subparagraph 14(1)(a)(i) as a result of the disposition,

and, for the purposes of determining at any time the child's cumulative eligible capital in respect of the business, an amount equal to the amount determined under subparagraph (ii) shall be added to the amount otherwise determined under clause 14(5)(a)(v)(A); and"

(3) Subsections (1) and (2) are applicable with respect to transfers occurring after the commencement of the first fiscal period commencing after 1987 of a taxpayer's business.

44.(1) Subsection 74.2(2) of the said Act is repealed and the following substituted therefor:

Deemed gain or loss

"(2) Where an individual is deemed under subsection (1), subsection 74(2) or section 75.1 to have a taxable capital gain or allowable capital loss for a taxation year,

(a) for the purposes of sections 3 and 111 as they apply for the purposes of section 110.6, such portion of the gain or loss as may reasonably be considered to relate to the disposition of a property by another person in the year shall be deemed to arise from the disposition of that property by the individual in the year, and

(b) for the purposes of section 110.6, that property shall be deemed to have been disposed of by the individual in the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

45.(1) Paragraph 82(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) where the taxpayer is an individual, other than a trust that is a registered charity, 1/4 of the aggregate of all amounts described in paragraph (a) received by him in the year from taxable Canadian corporations."

(2) Subsection 82(2) of the said Act is repealed and the following substituted therefor:

Certain dividends received by taxpayer

"(2) Where by reason of subsection 56(4) or (4.1) or sections 74 to 75, there is included in computing a taxpayer's income for a taxation year a dividend received by some other person, for the purposes of this section and sections 112 and 121, the dividend shall be deemed to have been received by the taxpayer."

(3) Subsection 82(3) of the said Act is repealed and the following substituted therefor:

Dividends received by spouse

"(3) Where the amount that would, but for this subsection, be deductible by reason of paragraph 118(1)(a) in computing a taxpayer's tax payable under this Part for a taxation year is less than the amount that would be so deductible if no amount were required by subsection (1) to be included in computing the income for the year of the taxpayer's spouse and the taxpayer so elects in his return of income for the year under this Part, all amounts described in paragraph (1)(a) received in the year from taxable Canadian corporations by the taxpayer's spouse shall be deemed to have been so received by the taxpayer and not by the spouse."

(4) Subsection (1) is applicable with respect to taxable dividends received in taxation years ending after 1987.

(5) Subsection (2) is applicable to the 1989 and subsequent taxation years.

(6) Subsection (3) is applicable to the 1988 and subsequent taxation years.

46.(1) Section 83 of the Income Tax Act is amended by adding thereto, immediately after subsection (2) thereof, the following subsections:

Idem

"(2.1) Notwithstanding subsection (2), where a dividend that but for this subsection would be a capital dividend is paid on a share of the capital stock of a corporation and the share (or another share for which the share was substituted) was acquired by the holder thereof in a transaction or as part of a series of transactions one of the main purposes of which was to receive the dividend,

(a) the dividend shall for the purposes of this Act (other than for the purposes of Part III and computing the capital dividend account of the corporation) be deemed to be received by the shareholder and paid by the corporation as a taxable dividend and not as a capital dividend; and

(b) paragraph (2)(b) does not apply in respect of the dividend.

Application of subsection (2.1)

(2.2) Subsection (2.1) does not apply in respect of a particular dividend, in respect of which an election is made under subsection (2), paid on a share of the capital stock of a particular corporation to an individual where it is reasonable to consider that all or substantially all of the capital dividend account of the particular corporation immediately before the particular dividend became payable consisted of amounts other than any amount

(a) added thereto under subparagraph 89(1)(b)(ii) in respect of a dividend received on a share of the capital stock of another corporation which share (or another share for which the share was substituted) was acquired by the particular corporation in a transaction or as part of a series of transactions one of the main purposes of which was that the particular corporation receive the dividend, but not in respect of a dividend where it is reasonable to consider that the purpose of paying the dividend was to distribute an amount that was received by the other corporation and included in computing the other corporation's capital dividend account by reason of subparagraph 89(1)(b)(iv);

(b) added thereto under paragraph 87(2)(z.1) as a result of an amalgamation or winding-up or a series of transactions including the amalgamation or winding-up that would not have been so added had the amalgamation or winding-up occurred or the series of transactions been commenced after 4 p.m. Eastern Daylight Saving Time, September 25, 1987;

(c) added thereto at a time when the particular corporation was controlled directly or indirectly in any manner whatever by one or more non-resident persons; or

(d) in respect of a capital gain from a disposition of a property by the particular corporation or another corporation that may reasonably be considered as having accrued while the property, or another property for which it was substituted, was a property of a corporation that was controlled directly or indirectly in any manner whatever by one or more non-resident persons.

Idem

(2.3) Subsection (2.1) does not apply in respect of a dividend, in respect of which an election is made under subsection (2), paid on a share of the capital stock of a corporation where it is reasonable to consider that the purpose of paying the dividend was to distribute an amount that was received by the corporation and included in computing its capital dividend account by reason of subparagraph 89(1)(b)(iv).

Idem

(2.4) Subsection (2.1) does not apply in respect of a particular dividend, in respect of which an election is made under subsection (2), paid on a share of the capital stock of a particular corporation to a corporation (in this subsection referred to as the "related corporation") related (otherwise than by reason of a right referred to in paragraph 251(5)(b)) to the particular corporation where it is reasonable to consider that all or substantially all of the capital dividend account of the particular corporation immediately before the particular dividend became payable consisted of amounts other than any amount

(a) added thereto under subparagraph 89(1)(b)(ii) in respect of a dividend received on a share of the capital stock of another corporation if it is reasonable to consider that any portion of the capital dividend account of that other corporation immediately before that dividend became payable consisted of amounts added thereto under subparagraph 89(1)(b)(ii) or paragraph 87(2)(z.1) as a result of a transaction or a series of transactions that would not have been so added had the transaction occurred or the series of transactions been commenced after 4 p.m. Eastern Daylight Saving Time, September 25, 1987;

(b) that represented the capital dividend account of a corporation before it became related to the related corporation;

(c) added thereto at a time when the particular corporation was controlled directly or indirectly by one or more non-resident persons;

(d) in respect of a capital gain from a disposition of a property by the particular corporation or another corporation that may reasonably be considered as having accrued while the property, or another property for which it was substituted, was a property of a corporation that was controlled directly or indirectly by one or more non-resident persons; or

(e) in respect of a capital gain from a disposition of a property, or another property for which it was substituted, that may reasonably be considered as having accrued while the property or the other property was a property of a person that was not related to the related corporation."

(2) Subsection (1) is applicable with respect to dividends paid after 4 p.m. Eastern Daylight Saving Time, September 25, 1987.

47.(1) Subsection 84(1) of the said Act is amended by striking out the word "or" at the end of paragraph (c.1) thereof, by adding the word "or" at the end of paragraph (c.2) thereof and by adding thereto, immediately following paragraph (c.2) thereof, the following paragraph:

> "(c.3) where the corporation is a corporation other than an insurance corporation or a bank to which the Bank Act or the Quebec Savings Banks Act applies, any action by which it converts any of its contributed surplus that arose on the issuance, after March 31, 1977, of shares of a class of its capital stock (other than an issuance to which section 51, 66.3, 84.1, 85, 85.1, 86 or 87, subsection 192(4.1) or 194(4.1) or section 212.1 applied) into paid-up capital in respect of shares of that class of its capital stock,"

(2) Paragraph 84(6)(a) of the said Act is repealed and the following substituted therefor:

> "(a) in respect of any transaction or event, to the extent that subsection (1) is applicable in respect of that transaction or event; and"

(3) Subsection (1) is applicable to actions occurring after 1987.

(4) Subsection (2) is applicable to transactions and events occurring after April, 1988.

48.(1) Paragraph 84.1(2)(a) of the said Act is repealed and the following substituted therefor:

> "(a) where a share disposed of by a taxpayer was acquired by him before 1972, the adjusted cost base to the taxpayer of the share at any time shall be deemed to be the aggregate of
>
> > (i) the amount that would be its adjusted cost base to him if the Income Tax Application Rules, 1971 were read without reference to subsections 26(3) and (7) thereof, and
> >
> > (ii) the aggregate of all amounts each of which is an amount received by the taxpayer after 1971 and before that time as a dividend on the share and in respect of which the corporation that paid the dividend has made an election under subsection 83(1);"

(2) All that portion of paragraph 84.1(2)(a.1) of the said Act preceding subclause (ii) thereof is repealed and the following substituted therefor:

"(a.1) where a share disposed of by a taxpayer was acquired by him after 1971 from a person with whom he was not dealing at arm's length, was a share substituted for such a share or was a share substituted for a share owned by the taxpayer at the end of 1971, the adjusted cost base to the taxpayer of the share at any time shall be deemed to be the amount, if any, by which its adjusted cost base to him, otherwise determined, exceeds the aggregate of

(i) where the share or a share for which the share was substituted was owned at the end of 1971 by the taxpayer or a person with whom the taxpayer did not deal at arm's length, the amount in respect of such share equal to the amount, if any, by which

(A) the fair market value of the share or the share for which it was substituted, as the case may be, on valuation day (within the meaning assigned by section 24 of the Income Tax Application Rules, 1971)

exceeds the aggregate of

(B) the actual cost (within the meaning assigned by subsection 26(13) of those Rules) of the share or the share for which it was substituted, as the case may be, on January 1, 1972, to the taxpayer or the person with whom he did not deal at arm's length, and

(C) the aggregate of all amounts each of which is an amount received by the taxpayer or the person with whom he did not deal at arm's length after 1971 and before that time as a dividend on the share or the share for which it was substituted and in respect of which the corporation that paid the dividend has made an election under subsection 83(1), and"

(3) Subsections (1) and (2) are applicable in respect of dispositions made after May 22, 1985.

49.(1) All that portion of subsection 85(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Transfer of property to corporation by shareholders

"85.(1) Where a taxpayer has, in a taxation year, disposed of any of his property that was eligible property to a taxable Canadian corporation for consideration that includes shares of the capital stock of the corporation, if the taxpayer and the corporation have jointly elected in prescribed form and in accordance with subsection (6), the following rules apply:"

(2) All that portion of paragraph 85(1)(c.1) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

> "(c.1) where the property was inventory or capital property (other than depreciable property of a prescribed class) of the taxpayer or a property (other than a capital property or an inventory) of the taxpayer that is a security or debt obligation used in the year in, or held in the year in the course of, carrying on the business of insurance or lending money and the amount that the taxpayer and the corporation have agreed upon in their election in respect of the property is less than the lesser of"

(3) Subparagraph 85(1)(d)(i) of the said Act is repealed and the following substituted therefor:

> "(i) 4/3 of the taxpayer's cumulative eligible capital in respect of the business immediately before the disposition,"

(4) Paragraph 85(1)(e.2) of the said Act is repealed and the following substituted therefor:

> "(e.2) where the fair market value of the property immediately before the disposition exceeds the greater of
>
> (i) the fair market value, immediately after the disposition, of the consideration (including shares of the capital stock of the corporation or the right to receive any such shares) received by the taxpayer for the property disposed of by him, and
>
> (ii) the amount that the taxpayer and the corporation have agreed upon in their election in respect of the property, determined without reference to this paragraph,

and it is reasonable to regard any part of such excess as a benefit that the taxpayer desired to have conferred on a person related to the taxpayer, the amount that the taxpayer and the corporation have agreed upon in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, be deemed (except for the purposes of paragraphs (g) and (h)) to be an amount equal to the aggregate of the amount referred to in subparagraph (ii) and that part of such excess.

(5) Subsection 85(1) of the said Act is further amended by adding thereto, immediately after paragraph (e.3) thereof, the following paragraph:

"(e.4) where

(i) the property is a passenger vehicle of the taxpayer the actual cost to the taxpayer of which is more than $20,000 or such other amount as may be prescribed, and

(ii) the taxpayer and the corporation do not deal at arm's length,

the amount that the taxpayer and the corporation have agreed on in their election in respect of the vehicle shall be deemed to be the undepreciated capital cost to the taxpayer of the vehicle immediately before the disposition and paragraphs 13(7)(g) and (h) apply in determining for the purposes of this paragraph the capital cost or cost, as the case may be, to the taxpayer of the vehicle;"

(6) Section 85 of the said Act is further amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

Eligible property

"(1.1) For the purposes of subsection (1), eligible property means

(a) a capital property (other than real property, an interest therein or an option in respect thereof, owned by a non-resident person),

(b) a capital property that is real property, an interest therein or an option in respect thereof, owned by a non-resident insurer where such property and the property received as consideration for such property are property used by it in the year in, or held by it in the year in the course of (within the meaning assigned by paragraph 138(12)(l)), carrying on an insurance business in Canada,

(c) a Canadian resource property,

(d) a foreign resource property,

(e) an eligible capital property,

(f) an inventory (other than real property), or

(g) a property (other than a capital property or an inventory) that is a security or debt obligation used by the taxpayer in the year in, or held by it in the year in the course of, carrying on the business of insurance or lending money."

(7) Paragraph 85(2)(a) of the said Act is repealed and the following substituted therefor:

"(a) a partnership has disposed of any partnership property that was a capital property (other than real property, an interest therein or an option in respect thereof, owned by a partnership that was not a Canadian partnership at the time of the disposition), a Canadian resource property, a foreign resource property, an eligible capital property, an inventory (other than real property) or a property (other than a capital property or an inventory) that is a security or debt obligation used by it in the year in, or held by it in the year in the course of, carrying on the business of insurance or lending money to a taxable Canadian corporation for consideration that includes shares of the capital stock of the corporation, and"

(8) All that portion of paragraph 85(4)(b) of the Act immediately preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(b) in computing the adjusted cost base to the taxpayer of all shares of any particular class of the capital stock of the corporation owned by him immediately after the disposition, there shall be added, in the case of capital property, the amount that is equal to, and in the case of eligible capital property, 4/3 of the amount that is equal to, that proportion of the amount, if any, by which"

(9) Subsections (1), (2), (6) and (7) are applicable to dispositions of property occurring after 1986.

(10) Subsections (3) and (8) are applicable,

(a) in the case of a corporation, with respect to dispositions by it of property occurring after the commencement of its first taxation year commencing after June, 1988; and

(b) in any other case, with respect to dispositions of property in respect of a business occurring after the commencement of the first fiscal period commencing after 1987 of the business.

(11) Subsection (4) is applicable with respect to dispositions occurring after June, 1988.

(12) Subsection (5) is applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

50.(1) Subsection 87(2) of the said Act is amended by adding thereto, immediately after paragraph (e.1) thereof, the following paragraph:

Security or debt obligation

"(e.2) where any property that is a security or debt obligation (other than a capital property or an inventory) of a predecessor corporation used by it in the year in, or held by it in the year in the course of, carrying on the business of insurance or lending money in the taxation year ending immediately before the amalgamation has been acquired by the new corporation from the predecessor corporation, the cost of the property to the new corporation shall be deemed to be the amount that was the cost amount thereof to the predecessor corporation immediately before the amalgamation;"

(2) Subsection 87(2) of the said Act is amended by adding thereto, immediately after paragraph (f) thereof, the following paragraph:

Idem

"(f.1) notwithstanding paragraph (f), for the purposes of computing the cumulative eligible capital of the new corporation at any time in respect of a business, where the last taxation year of a predecessor corporation commenced before July, 1988 and the predecessor corporation carried on a business that is carried on by the new corporation, 3/2 of the amount of the cumulative eligible capital of the predecessor corporation immediately before the amalgamation in respect of that business shall be added to the amount determined under subparagraph 14(5)(a)(i) in respect thereof;"

(3) Paragraph 87(2)(g.1) of the said Act is repealed and the following substituted therefor:

Continuation

"(g.1) for the purposes of sections 12.3 and 12.4, subsection 20(26) and section 26, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;"

(4) Paragraph 87(2)(h) of the said Act is repealed and the following substituted therefor:

Debts

"(h) for the purpose of computing a deduction from the income of the new corporation for a taxation year under paragraph 20(1)(l), (l.1) or (p)

(i) any debt owing to a predecessor corporation that was included in computing the income of the predecessor corporation for its last taxation year or a preceding taxation year,

(ii) where a predecessor corporation was an insurer or a corporation the ordinary business of which included the lending of money, any loan or lending asset made or acquired by the predecessor corporation in the ordinary course of its business, or

(iii) where a predecessor corporation was an insurer or a corporation the ordinary business of which included the lending of money, any instrument or commitment described in paragraph 20(1)(l.1) that was issued, made or assumed by the predecessor corporation in the ordinary course of its business,

and that by reason of the amalgamation, has been acquired by the new corporation, shall be deemed to be a debt owing to the new corporation that was included in computing its income for a preceding taxation year, a loan or lending asset made or acquired by the new corporation in a preceding taxation year in the ordinary course of its business or an instrument or commitment that was issued, made or assumed by the new corporation in a preceding taxation year in the ordinary course of its business, as the case may be;"

(5) Subsection 87(2)(j.6) of the said Act is repealed and the following substituted therefor:

Continuing corporation

"(j.6) for the purposes of paragraph 12(1)(x), subsections 13(7.1) and 13(7.4), subparagraph 13(21)(f)(ii.2), subsection 13(24), paragraphs 20(1)(e) and (hh) and 53(2)(s) and subsections 53(2.1), 66(11.4) and 66.7(11) the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;"

(6) Subsection 87(2) of the said Act is amended by adding thereto, immediately following paragraph (j.8) thereof, the following paragraph:

"(j.9) for the purposes of determining the amount deductible by the new corporation for any taxation year under section 125.2, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;"

(7) Paragraph 87(2)(v) of the said Act is repealed and the following substituted therefor:

Gifts

"(v) for the purposes of section 110.1, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation with respect to gifts;"

(8) Paragraph 87(2)(z.1) of the said Act is repealed and the following substituted therefor:

Capital dividend account

"(z.1) for the purpose of computing at any particular time after the amalgamation the capital dividend account of a new corporation that has been a private corporation continuously from the time of the amalgamation to the particular time, there shall be added the amount of the capital dividend account of each predecessor corporation immediately before the amalgamation, except that the amount of the capital dividend account of any predecessor corporation immediately before the amalgamation shall be deemed to be nil if, immediately before the amalgamation, a dividend in respect of which an election had been made under subsection 83(2) were paid by the predecessor corporation to a shareholder and subsection 83(2.1) would have applied to deem all or any portion of the dividend to be received by the shareholder as a taxable dividend;"

(9) Subsection 87(2) of the said Act is further amended by adding thereto immediately following paragraph (z.1) thereof the following paragraph:

Application of Part III

"(z.2) for the purposes of Part III, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;"

(10) Subsection 87(2.2) of the said Act is repealed and the following substituted therefor:

Amalgamation of insurance corporations

"(2.2) Where there has been an amalgamation of two or more corporations and one or more of the predecessor corporations was an insurance corporation, the new corporation shall, notwithstanding subsection (2), be deemed, for the purposes of paragraphs 12(1)(d), (e), (i) and (s) and 20(1)(l), (l.1), (p) and (jj) and 20(7)(c), sections 33, 138, 138.1, 140, 142 and 148 and Part XII.3 to be the same corporation as, and a continuation of, each such predecessor corporation."

(11) Subsections (1) and (10) are applicable to amalgamations occurring after December 15, 1987.

(12) Subsection (2) is applicable with respect to amalgamations occurring after June, 1988.

(13) Subsections (3) and (4) are applicable to taxation years commencing after June 17, 1987 that end after 1987 of corporations formed as a result of amalgamations.

(14) Subsection (5) is applicable to the 1988 and subsequent taxation years, except that, with respect to amalgamations occurring before 1988, the reference to "paragraphs 20(1)(e) and (hh)" in paragraph 87(2)(j.6) of the said Act, as enacted by subsection (5), shall be read as a reference to "paragraph 20(1)(hh)".

(15) Subsection (6) is applicable with respect to amalgamations occurring and windings-up commencing after 1987.

(16) Subsection (7) is applicable to the 1988 and subsequent taxation years.

(17) Subsection (8) is applicable with respect to amalgamations and windings-up occurring after 4 p.m. Eastern Daylight Saving Time, September 25, 1987.

(18) Subsection (9) is applicable to amalgamations occurring after April, 1988.

51.(1) All that portion of subparagraph 88(1)(d)(i.1) of the said Act preceding clause (A) is repealed and the following substituted therefor:

> "(i.1) the aggregate of all amounts each of which is an amount in respect of any share of the capital stock of the subsidiary disposed of by the parent on the winding-up or in contemplation of the winding-up, equal to the aggregate of all amounts received by the parent or by a corporation with which the parent was not dealing at arm's length in respect of"

(2) Paragraph 88(1)(e.1) of the said Act is repealed and the following substituted therefor:

> "(e.1) the subsidiary may, for the purposes of computing its income for its taxation year during which its assets were transferred to, and its obligations were assumed by, the parent on the winding-up, claim any reserve that would have been allowed under this Part if its assets had not been transferred to, or its obligations had not been assumed by, the parent on the winding-up and notwithstanding any other provision of this Part, no amount shall be included in respect of any reserve so claimed in computing the income of the subsidiary for its taxation year, if any, following the year in which its assets were transferred to or its obligations were assumed by the parent;"

(3) All that portion of paragraph 88(1)(e.2) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

> "(e.2) paragraphs 87(2)(c), (d.1), (e.1), (e.2), (g) to (l), (l.3) to (u), (x), (y.1), (z.1), (z.2), (cc), (ll) to (nn) and (pp), subsection 87(6) and, subject to section 78, subsection 87(7) apply to the winding-up as if the references therein to"

(4) Paragraph 88(1)(e.6) of the said Act is repealed and the following substituted therefor:

> "(e.6) where a subsidiary has made a gift in a taxation year (in this section referred to as the "gift year"), for the purposes of computing the amount deductible under section 110.1 by the parent for its taxation years ending after the subsidiary was wound up, the parent shall be deemed to have made a gift in each of its taxation years in which a gift year of the subsidiary ended equal to the amount, if any, by which the aggregate of all gifts made by the subsidiary in the gift year exceeds the aggregate of all amounts deducted by the subsidiary under paragraph 110(1)(a), (b) or (b.1) or section 110.1 in respect of such gifts;"

(5) Subsection 88(1) of the said Act is further amended by striking out the word "and" at the end of paragraph (e.8) thereof, by adding the word "and" at the end of paragraph (f) thereof and by adding thereto the following paragraph:

> "(g) where the subsidiary was an insurance corporation,
>
> > (i) for the purposes of paragraphs 12(1)(d), (e), (i) and (s) and 20(1)(l), (l.1), (p) and (jj) and 20(7)(c), sections 33, 138, 138.1, 140, 142 and 148 and Part XII.3, the parent shall, notwithstanding paragraph (e.2), be deemed to be the same corporation as, and a continuation of, the subsidiary, and
> >
> > (ii) for the purpose of determining the gross investment revenue and the gains and losses from property of the subsidiary and the parent,
> >
> > > (A) the subsidiary and the parent shall be deemed to have had a taxation year ending immediately before the time when the property of the subsidiary was transferred to, and the obligations of the subsidiary were assumed by, the parent on the winding-up, and
> > >
> > > (B) for the taxation years of the subsidiary and the parent following their taxation years referred to in clause (A), the property transferred to, and the obligations assumed by, the parent on the winding-up shall be deemed to have been transferred or assumed, as the case may be, on the last day of the taxation year referred to in clause (A) and the

parent shall be deemed to be the same corporation as and a continuation of the subsidiary with respect to that property, those obligations and the insurance businesses carried on by the subsidiary."

(6) All that portion of subsection 88(1.3) preceding paragraph (a) thereof is repealed and the following substituted therefor:

Computation of income and tax of parent

"(1.3) For the purpose of paragraphs (1)(e.3), (e.6) and (e.7), subsections (1.1) and (1.2), section 110.1, subsections 111(1) and (3) and Part IV, where a parent corporation has been incorporated or otherwise formed after the end of an expenditure year, gift year, foreign tax year or loss year, as the case may be, of a subsidiary of the parent, for the purpose of computing the taxable income of, and the tax payable under this Part and Part IV by, the parent for any taxation year,"

(7) Subsection (1) is applicable to windings-up commencing after June, 1988.

(8) Subsections (2), (3) and (5) are applicable to windings-up commencing after December 15, 1987 except that in applying paragraph 88(1)(e.2) of the said Act, as enacted by subsection (3) to windings-up commencing before May, 1988, it shall be read without reference to "(z.2)" therein.

(9) Subsection (4) is applicable to the 1988 and subsequent taxation years.

(10) Subsection (6) is applicable to taxation years ending after May 23, 1985 except that in its application to taxation years ending before 1988, the reference to "section 110.1" in subsection 88(1.3) of the said Act, as amended by subsection (6), shall be read as a reference to "paragraphs 110(1)(a), (b) and (b.1)."

52.(1) Subparagraph 89(1)(b)(i) of the said Act is repealed and the following substituted therefor:

"(i) the amount, if any, by which

(A) the aggregate of all amounts each of which is the amount if any, by which

(I) the amount of a capital gain of the corporation realized in the period commencing on the first day of the first taxation year commencing after the time the corporation last became a private corporation and ending after 1971, and ending immediately before the particular time

exceeds the aggregate of

(II) the portion of the capital gain referred to in subclause (I) that is the corporation's taxable capital gain, and

(III) the portion of the amount, if any, by which the amount determined under subclause (I) exceeds the amount determined under subclause (II) from the disposition by it of a property, other than a designated property, that may reasonably be regarded as having accrued while the property, or a property for which it was substituted,

1. was a property of a corporation (other than a private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation),

2. where, after November 26, 1987, the property became a property of a Canadian-controlled private corporation (otherwise than by reason of a change in the residence of one or more shareholders of the corporation), was a property of a corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons, or

3. where, after November 26, 1987, the property became a property of a private corporation that was not exempt from tax under this Part on its taxable income, was a property of a corporation exempt from tax under this Part on its taxable income,

exceeds

(B) the aggregate of all amounts each of which is the amount, if any, by which

(I) the amount of a capital loss of the corporation realized in that period

exceeds the aggregate of

(II) the part of the capital loss referred to in subclause (I) that is the corporation's allowable capital loss, and

(III) the portion of the the amount, if any, by which the amount determined under subclause (I) exceeds the amount determined under subclause (II) from the disposition by it of a property, other than a designated property, that may reasonably be regarded as having accrued while the property, or a property for which it was substituted,

1. was a property of a corporation (other than a private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation),

2. where, after November 26, 1987, the property became a property of a Canadian-controlled private corporation (otherwise than by reason of a change in the residence of one or more shareholders of the corporation), was a property of a corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons, or

3. where, after November 26, 1987, the property became a property of a private corporation that was not exempt from tax under this Part on its taxable income, was a property of a corporation exempt from tax under this Part on its taxable income,"

(2) Subparagraph 89(1)(b)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) all amounts each of which is an amount in respect of a business carried on by the corporation at any time in the period, equal to the amount, if any, by which the aggregate of

(A) where the period commenced before the corporation's adjustment time (within the meaning assigned by subsection 14(5) and referred to in this subparagraph as the corporation's "adjustment time"), the amount, if any, by which

(I) the aggregate of the amounts in respect of the business required to be included in the calculation of the corporation's cumulative eligible capital by virtue of subparagraph 14(5)(a)(iv) with respect to that portion of the period preceding its adjustment time

exceeds the aggregate of

(II) the cumulative eligible capital of the corporation in respect of the business at the commencement of the period, and

(III) 1/2 of the aggregate of the eligible capital expenditures in respect of the business that were made or incurred by the corporation during that portion of the period preceding its adjustment time,

(B) 1/3 of the aggregate of the amounts in respect of the business required to be included in the calculation of the corporation's cumulative eligible capital by reason of subparagraph 14(5)(a)(iv) with respect to that portion of the period following its adjustment time, and

(C) 1/3 of all amounts received in the period that were required to be included in the corporation's income by reason of paragraph 12(1)(1.1)

exceeds the aggregate of

(D) where the period commenced after the corporation's adjustment time, 1/3 of its cumulative eligible capital in respect of the business at the commencement of the period,

(E) 1/4 of the aggregate of the eligible capital expenditures in respect of the business made or incurred by the corporation with respect to that portion of the period after its adjustment time,

(F) where the period commenced before the corporation's adjustment time, 1/2 of the amount, if any, by which the aggregate of the amounts determined in respect of the corporation under subclauses (A)(II) and (III) exceeds the amount determined in respect of the corporation under subclause (A)(I), and

(G) 1/3 of all amounts deducted by the corporation under subsection 20(4.2) in respect of debts established by it to have become bad debts during the period,"

(3) Clause 89(1)(c)(ii)(C) of the said Act is repealed and the following substituted therefor:

"(C) where the particular time is after March 31, 1977, an amount equal to the paid-up capital in respect of that class of shares at the particular time, computed without reference to the provisions of this Act except subsections 66.3(2) and (4), sections 84.1 and 84.2, subsections 85(2.1), 85.1(2.1), 87(3), 87(9), 138(11.7), 192(4.1) and 194(4.1) and section 212.1, and"

(4) Subsection 89(1.1) of the said Act is repealed and the following substituted therefor:

Capital dividend account where control acquired

"(1.1) Where at any particular time after March 31, 1977 a corporation that was, at a previous time, a private corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons becomes a Canadian-controlled private corporation (otherwise than by reason of a change in the residence of one or more of its shareholders), in computing the corporation's capital dividend account at and after the particular time there shall be deducted the amount of the corporation's capital dividend account immediately before the particular time."

(5) Section 89 of the said Act is further amended by adding thereto, immediately after subsection (1.1) thereof, the following subsection:

Capital dividend account of tax-exempt corporation

"(1.2) Where at any particular time after November 26, 1987 a corporation ceases to be exempt from tax under this Part on its taxable income, in computing the corporation's capital dividend account at and after the particular time there shall be deducted the amount of the corporation's capital dividend account (computed without reference to this subsection) immediately after the particular time."

(6) Subsection (1) is applicable after November 26, 1987, except that sub-subclauses 89(1)(b)(i)(A)(III) 2 and 3 and 89(1)(b)(i)(B)(III) 2 and 3, as enacted by subsection (1), are applicable with respect to dispositions occurring after November 26, 1987.

(7) Subsection (2) is applicable after June 17, 1987 except that, with respect to amounts included in the calculation of a corporation's income by reason of paragraph 12(1)(i.1) or subsection 20(4.2) of the said Act, as enacted by subsections 4(2) and 12(11) of this Act respectively, relating to an amount owing in respect of a disposition of property occurring in a taxation year of the corporation commencing before July, 1988, clauses 89(1)(b)(iii)(C) and (G) of the said Act as enacted by subsection (2) shall be read without reference to the words "1/3 of".

(8) Subsection (3) is applicable after December 15, 1987.

(9) Subsection (4) is applicable after 4 p.m. Eastern Daylight Saving Time, September 25, 1987.

(10) Subsection (5) is applicable after November 26, 1987.

53.(1) Subsection 96(1) of the said Act is amended by adding thereto, immediately after paragraph (e) thereof, the following paragraph:

"(e.1) the amount, if any, by which

(i) the aggregate of all amounts determined under paragraphs 37(1)(a) to (c.1) in respect of the partnership at the end of the taxation year

exceeds

(ii) the aggregate of all amounts determined under paragraphs 37(1)(d) to (g) in respect of the partnership at the end of the year were deducted under subsection 37(1) by the partnership in computing its income for the year;"

(2) Paragraph 96(1)(g) of the said Act is repealed and the following substituted therefor:

"(g) the amount, if any, by which

(i) the loss of the partnership for a taxation year from any source or sources in a particular place,

exceeds

(ii) in the case of a specified member of the partnership in the year, the amount, if any, deducted by the partnership by virtue of section 37 in calculating its income for the taxation year from that source or sources in the particular place, as the case may be, and

(iii) in any other case, nil

were the loss of the taxpayer from that source or from sources in that particular place, as the case may be, for the taxation year of the taxpayer in which the partnership's taxation year ends, to the extent of the taxpayer's share thereof."

(3) Section 96 of the said Act is amended by adding thereto, immediately following subsection (1.6) thereof, the following subsections:

"Disposition of capital property"

"(1.7) For the purposes of section 110.6, where a partnership disposes of a capital property in a fiscal period, each member of the partnership shall be deemed to have disposed of the property in his taxation year in which the fiscal period of the partnership ends.

Gains and losses

(1.8) Notwithstanding section 38 or subsection (1), where in a particular taxation year of a taxpayer (other than an individual who is not a testamentary trust) commencing before 1990, the taxpayer is a member of a partnership with a fiscal period ending in the particular year, the amount of its taxable capital gain, allowable capital loss or allowable business investment loss for the particular year determined in respect of the partnership shall be the amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the amount of the taxpayer's taxable capital gain, allowable capital loss or allowable business investment loss, as the case may be, for the particular year otherwise determined under this section in respect of the partnership;

B is the fraction that would be used under section 38 for the particular year in respect of the taxpayer if he had a capital gain for the particular year; and

C is the fraction that was used under section 38 for the fiscal period of the partnership in respect of the taxpayer."

(4) Paragraph 96(2.1)(a) of the said Act is repealed and the following substituted therefor:

"(a) the aggregate of all amounts each of which is his share of the amount of any loss of the partnership, determined in accordance with subsection 96(1), for a fiscal period of the partnership ending in the taxation year from a business (other than a farming business) or from property"

(5) Subsection 96(2.2) of the said Act is amended by striking out the word "and" at the end of paragraph (a) thereof, by adding the word "and" at the end of paragraph (b) thereof and by adding thereto immediately after paragraph (b) thereof, the following paragraph:

"(b.1) where the particular time is the end of the fiscal period of the partnership, the amount referred to in subparagraph 53(1)(e)(viii) in respect of the taxpayer for that fiscal period"

(6) Subsections (1) and (2) are applicable for taxation years of partnerships ending after December 15, 1987 except that, where a taxpayer acquired a partnership interest before December 16, 1987, or after December 15, 1987

(a) pursuant to an obligation in writing entered into before December 16, 1987,

(b) and before June, 1988 pursuant to the terms of a prospectus, preliminary prospectus, registration statement or offering memorandum filed before December 16, 1987 with a public authority in Canada pursuant to and in accordance with the securities legislation of any province, or

(c) and before June, 1988 as part of an offering of securities where

(i) the offering was made pursuant to the terms of an offering memorandum which contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering of the securities,

(ii) the offering memorandum was distributed before December 16, 1987,

(iii) solicitations in respect of the sale of the securities contemplated by the offering memorandum were made before December 16, 1987, and

(iv) the sale of the securities was substantially in accordance with the offering memorandum

subsections (1) and (2) shall not apply in respect of the taxpayer to expenditures made by the partnership

(d) before December 16, 1987, or

(e) after December 15, 1987 and before 1989 pursuant to

(i) an obligation in writing entered into by the partnership before December 16, 1987,

(ii) the terms of a prospectus, preliminary prospectus, registration statement or offering memorandum filed before December 16, 1987 with a public authority in Canada pursuant to and in accordance with the securities legislation of any province, or

(iii) the terms of an offering memorandum described in paragraph (c) and pursuant to which securities were distributed.

(7) Subsection 96(1.7) of the said Act, as enacted by subsection (3), is applicable to the 1988 and subsequent taxation years.

(8) Subsection 96(1.8) of the said Act, as enacted by subsection (3), is applicable to taxation years and fiscal periods ending after 1987.

(9) Subsection (4) is applicable after December 15, 1987.

(10) Subsection (5) is applicable after June 17, 1987.

54.(1) All that portion of subsection 98(1) of the said Act following subparagraph (c)(ii) thereof is repealed and the following substituted therefor:

"the amount of the excess shall be deemed to be a gain of the taxpayer for the year from a disposition at that time of that interest and, for the purposes of section 110.6, that interest shall be deemed to have been disposed of by him in the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

55.(1) Subparagraph 98.1(1)(d)(i) of the said Act is repealed and the following substituted therefor:

"(i) by reason of paragraph (b), he shall, except for the purposes of subsections 110.1(4), 118.1(8) and 127(4.2), be deemed not to be a member of the partnership, and"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

56.(1) Paragraph 100(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) 3/4 of such portion of his capital gain for the year therefrom as may reasonably be regarded as attributable to increases in the value of any partnership property of the partnership that is capital property other than depreciable property,"

(2) Subsection (1) is applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the reference to "3/4" in paragraph 100(1)(a) of the said Act, as enacted by subsection (1), shall be read as a reference to "2/3";

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "3/4" in paragraph 100(1)(a) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "3/4" in paragraph 100(1)(a) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year.

57.(1) All that portion of section 101 of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Disposition of farmland by partnership

"101. Where a taxpayer was a member of a partnership at the end of a taxation year of the partnership in which the partnership disposed of land used in a farming business of the partnership, there may be deducted in computing the taxpayer's income for his taxation year in which the taxation year of the partnership ended, 3/4 of the aggregate of amounts each of which is an amount in respect of that taxation year of the taxpayer or any preceding taxation year of the taxpayer ending after 1971, equal to the taxpayer's loss, if any, for the year from the farming business, to the extent that such loss"

(2) Subparagraph 101(d)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) 4/3 of the amount of the taxpayer's taxable capital gain from the disposition of the land."

(3) Subsection (1) is applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the reference to "3/4" in section 101 of the said Act, as enacted by subsection (1), shall be read as a reference to "2/3";

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "3/4" in section 101 of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "3/4" in section 101 of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year are after 1989 is of the number of days in the year.

(4) Subsection (2) is applicable to taxation years and fiscal periods ending after 1987, except that

(a) where the taxpayer is an individual or a partnership, for taxation years and fiscal periods ending after 1987 and before 1990, the reference to "4/3" in subparagraph 101(d)(ii) of the said Act, as enacted by subsection (1), shall be read as a reference to "3/2";

(b) where the taxpayer is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "4/3" in subparagraph 101(d)(ii) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the aggregate of

(i) that proportion of 2 that the number of days in the year that are before 1988 is of the number of days in the year,

(ii) that proportion of 3/2 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and

(iii) that proportion of 4/3 that the number of days in the year that are after 1989 is of the number of days in the year; and

(c) where the taxpayer is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "4/3" in subparagraph 101(d)(ii) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

(i) that proportion of 2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 3/2 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 4/3 that the number of days in the year that are after 1989 is of the number of days in the year.

58.(1) Subsection 104(3) of the said Act is repealed.

(2) Subsection 104(21.1) of the said Act is repealed and the following substituted therefor:

Beneficiary's taxable capital gain

"(21.1) Notwithstanding section 38 or subsection (21), where in a particular taxation year, commencing before 1990, of a taxpayer (other than an individual who is not a testamentary trust) the taxpayer is a beneficiary of a trust with a taxation year ending in the particular year, the amount deemed by subsection (21) to be a taxable capital gain of the taxpayer for the particular year in respect of the trust shall be the amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the amount, if any, by which the amount deemed by subsection (21) to be the taxpayer's taxable capital gain for the particular year in respect of the trust exceeds the amount designated by the trust for the particular year in respect of the taxpayer under subsection (13.2);

B is the fraction that would be used under section 38 for the particular year in respect of the taxpayer if he had a capital gain for the particular year; and

C is the fraction that is used under section 38 for the year of the trust in respect of the taxpayer.

(3) Paragraphs 104(21.2)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) the trust shall in its return of income for the designation year designate an amount in respect of its eligible taxable capital gains for the designation year in respect of the beneficiary equal to the amount determined in respect of the beneficiary under each of subparagraphs (b)(i), (ii) and (iii); and

(b) the beneficiary shall, for the purposes of sections 3, 74.3 and 111 as they apply for the purposes of section 110.6, be deemed to have a taxable capital gain for the year

(i) from the disposition of capital property that is qualified farm property of the beneficiary equal to the amount determined by the formula

$$(A \times \frac{B}{C}) \times \frac{D}{G}$$

(ii) from the disposition of capital property that is a qualified small business corporation share of the beneficiary equal to the amount determined by the formula

$$(A \times \frac{B}{C}) \times \frac{E}{G}$$

and

(iii) from the disposition of capital property, other than properties referred to in subparagraphs (i) or (ii), equal to the amount determined by the formula

$$(A \times \frac{B}{C}) \times \frac{F}{G}$$

where

A is the eligible taxable capital gains of the trust for the designation year,

B is the amount, if any, by which the designated amount exceeds the amount designated in respect of the beneficiary for the designation year under subsection 104(13.2), C is the net taxable capital gains of the trust for the designation year,

D is the amount, if any, that would be determined in respect of the trust for the designation year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm properties of the trust disposed of by it after 1984,

E is the amount, if any, that would be determined in respect of the trust for the designation year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified small business corporation shares of the trust, other than qualified farm property, disposed of by it after June 17, 1987,

F is the amount, if any, that would be determined in respect of the trust for the designation year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties disposed of by it after 1984, other than qualified farm properties and other than qualified small business corporation shares disposed of by it after June 17, 1987, and

G is the aggregate of the amounts used for D, E and F under this paragraph in respect of the beneficiary for the year,

and for the purposes of section 110.6, those capital properties shall be deemed to have been disposed of by the beneficiary in the year."

(4) Subparagraph 104(23)(d)(iv) of the said Act is repealed and the following substituted therefor:

> "(iv) subject to sections 114.2 and 118.12, that other person were entitled to the deductions to which the individual was entitled under sections 110, 118 to 118.7 and 118.9 for the period in computing his taxable income or tax payable under this Part, as the case may be, for the period; and"

(5) Subsection 104(26) of the said Act is repealed.

(6) All that portion of subsection 104(27) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

> "shall, if so designated by the trust in respect of the particular beneficiary in the return of its income for the year under this Part, be deemed, for the purposes of subsections 118(3) and (7) (where the particular beneficiary was the spouse of the individual upon and in consequence of whose death the trust arose), this subsection and paragraph 60(j), to be included in computing the income for the year of the particular beneficiary by reason of subparagraph 56(1)(a)(i) and not to be included in computing the income of the trust for the year."

(7) Subsections (1) and (3) to (6) are applicable to the 1988 and subsequent taxation years.

(8) Subsection (2) is applicable to taxation years and fiscal periods ending after 1987.

59.(1) All that portion of subsection 106(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

> Income interest in trust
>
> "106(1) Where an amount in respect of a taxpayer's income interest in a trust has been included in computing his income for a taxation year by reason of subsection (2) or 104(13), except to the extent that an amount in respect thereof has been deducted in computing the taxpayer's taxable income pursuant to subsection 112(1) or 138(6), there may be deducted in computing his income for the year the lesser of"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

60.(1) Subsection 108(1) of the said Act is amended by adding thereto, immediately following paragraph (g) thereof, the following paragraphs:

> "(g.1) "qualified farm property" of an individual has the meaning assigned by subsection 110.6(1);
>
> (g.2) "qualified small business corporation share" of an individual has the meaning assigned by subsection 110.6(1);"

(2) Subsection 108(3) of the said Act is repealed and the following substituted therefor:

Meaning of "income" of trust

"(3) For the purposes of paragraph 108(1)(e), the income of a trust is its income computed without reference to the provisions of this Act and, for the purposes of subparagraphs 70(6)(b)(i), 73(1)(c)(i) and 104(4)(a)(iii), the income of a trust is its income computed without reference to the provisions of this Act, minus any dividends included therein

(a) that are amounts not included by reason of section 83 in computing the income of the trust for the purposes of the other provisions of this Act;

(b) that are described in subsection 131(1); or

(c) to which subsection 131(1) applies by reason of subsection 130(2)."

(3) All that portion of subsection 108(5) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"but, for greater certainty, nothing in this subsection shall affect the application of subsection 56(4.1) and sections 74 to 75."

(4) Subsection (1) is applicable to the 1988 and subsequent taxation years.

(5) Subsection (2) is applicable with respect to dividends paid after 4 p.m. Eastern Daylight Saving Time, September 25, 1987.

(6) Subsection (3) is applicable to the 1989 and subsequent taxation years.

61.(1) Section 109 of the said Act is repealed.

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

62.(1) Paragraphs 110(1)(a), (b), (b.1), (c), (e), (e.1), (g) and (h) and subsections 110(1.1), (1.2), (1.3) of the said Act are repealed.

(2) All that portion of paragraph 110(1)(d) of the said Act following subparagraph (iv) thereof is repealed and the following substituted therefor:

"an amount equal to 1/4 of the amount of the benefit deemed by subsection 7(1) to have been received by the taxpayer in the year in respect of the share or the transfer or other disposition of the rights under the agreement;"

(3) All that portion of paragraph 110(1)(d.1) of the said Act following subparagraph (iii) thereof is repealed and the following substituted therefor:

"an amount equal to 1/4 of the amount of the benefit;"

(4) Paragraph 110(1)(d.2) of the said Act is repealed and the following substituted therefor;

Prospector's and grubstaker's shares

"(d.2) where the taxpayer has, under paragraph 35(1)(d), included an amount in his income for the year in respect of a share received after May 22, 1985, an amount equal to 1/4 of that amount unless that amount is exempt from income tax in Canada by reason of a provision contained in a tax convention or agreement with another country that has the force of law in Canada;"

(5) Paragraph 110(1)(d.3) of the said Act is repealed and the following substituted therefor:

Employer's shares

"(d.3) where the taxpayer has, under subsection 147 (10.4), included an amount in computing his income for the year, an amount equal to 1/4 of that amount;"

(6) Subsection 110(2) of the said Act is repealed and the following substituted therefor:

Charitable gifts

"(2) Where an individual is, during a taxation year, a member of a religious order and has, as such, taken a vow of perpetual poverty, he may deduct in computing his taxable income for the year an amount equal to the aggregate of his superannuation or pension benefits and his earned income for the year (within the meaning assigned by section 63) if, of his income, that amount is paid in the year to the order."

(7) Subsections 110(2.1) to (9) of the said Act are repealed.

(8) Subsections (1), (6) and (7) are applicable to the 1988 and subsequent taxation years.

(9) Subsection (2) is applicable in respect of shares acquired or rights in respect of shares transferred or otherwise disposed of after 1987, except that in applying paragraph 110(1)(d) of the said Act, as enacted by subsection (2), to shares acquired or rights in respect of shares transferred or otherwise disposed of after 1987 and before 1990, the reference therein to "1/4" shall be read as a reference to "1/3".

(10) Subsections (3) and (4) are applicable to shares disposed of or exchanged after 1987 except that in applying paragraphs 110(1)(d.1) and (d.2) of the said Act, as enacted by subsections (3) and (4), to shares disposed of or exchanged after 1987 and before 1990, the references therein to "1/4" shall be read as references to "1/3".

(11) Subsection (5) is applicable to shares disposed of or exchanged after 1987, other than shares acquired on terminations of interests in deferred profit sharing plans occurring before May 24, 1985, except that in applying paragraph 110(1)(d.3) of the said Act, as enacted by subsection (5), to shares disposed of or exchanged after 1987 and before 1990, the reference therein to "1/4" shall be read as a reference to "1/3".

63.(1) Section 110.1 of the said Act is repealed and the following substituted therefor:

Deduction for gifts

"110.1(1) For the purpose of computing the taxable income of a corporation for a taxation year, there may be deducted such of the following amounts as are applicable:

Charitable gifts

(a) the aggregate of gifts made by the corporation in the year (and in the 5 immediately preceding taxation years to the extent of the amount thereof that was not deducted in computing its taxable income for any preceding taxation year) to

(i) registered charities,

(ii) registered Canadian amateur athletic associations,

(iii) housing corporations resident in Canada and exempt from tax under this Part by paragraph 149(1)(i),

(iv) Canadian municipalities,

(v) the United Nations or agencies thereof,

(vi) universities outside Canada prescribed to be universities the student body of which ordinarily includes students from Canada, and

(vii) charitable organizations outside Canada to which Her Majesty in right of Canada has made a gift during the corporation's taxation year or the 12 months immediately preceding that taxation year,

not exceeding 20% of its income for the year computed without reference to subsection 137(2);

Gifts to Her Majesty

(b) the aggregate of gifts made by the corporation in the year (and in the 5 immediately preceding taxation years to the extent of the amount thereof that was not deducted in computing its taxable income for any preceding taxation year) to Her Majesty in right of Canada and Her Majesty in right of the provinces, not exceeding the amount remaining, if any, when the amount deducted under paragraph (a) by the corporation for the year is deducted from its income for the year; and

Gifts to institutions

(c) the aggregate of gifts (other than gifts in respect of which amounts are or were deducted under paragraph (a) or (b)) of objects that the Canadian Cultural Property Export Review Board has determined meet all of the criteria set out in paragraphs 23(3)(b) and (c) of the Cultural Property Export and Import Act, which gifts were made by the corporation in the year (and in the 5 immediately preceding taxation years to the extent of the amount thereof not deducted under this Act in computing its taxable income for any preceding taxation year) to institutions or public authorities in Canada that were, at the time the gifts were made, designated under subsection 26(2) of that Act either generally or for a purpose related to those objects, not exceeding the amount remaining, if any, when the amounts deducted under paragraphs (a) and (b) by the corporation for the year are deducted from its income for the year.

Proof of gift

(2) A gift shall not be included for the purpose of determining a deduction under subsection (1) unless the making of the gift is proven by filing with the Minister a receipt therefor that contains prescribed information.

Gifts of capital property

(3) Where at any time

(a) a corporation makes a gift of

(i) capital property to a donee described in paragraph (1)(a) or (b), or

(ii) in the case of a corporation not resident in Canada, real property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that such property will be held for use in the public interest, and

(b) the fair market value of the property at that time exceeds its adjusted cost base to the corporation,

such amount, not greater than the fair market value and not less than the adjusted cost base to the corporation of the property at that time, as is designated by the corporation in its return of income under section 150 for the year in which the gift is made shall, if payment thereof is proven by filing with the Minister a receipt containing prescribed information, be deemed to be its proceeds of disposition of the property and the amount of the gift made by the corporation.

Gifts made by partnership

(4) Where a corporation is, at the end of a fiscal period of a partnership, a member of the partnership, its share of any amount that would, if the partnership were a person, be a gift made by the partnership to any donee shall, for the purposes of this section, be deemed to be a gift made to that donee by the corporation in its taxation year in which the fiscal period of the partnership ends."

(2) Subsection (1) is applicable with respect to computations of taxable income for the 1988 and subsequent taxation years.

64.(1) Sections 110.2 and 110.3 of the said Act are repealed.

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

65.(1) Subsection 110.4(1) of the said Act is repealed.

(2) All that portion of subsection 110.4(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Election

"(2) Where an individual files with his return under this Part for a taxation year ending before 1998 and throughout which he was resident in Canada an election in prescribed form on or before the day on or before which he was, or would have been if tax had been payable under this Part by him for the year, required to file a return of income under this Part for the year, there shall be added in computing his taxable income for the year the amount, if any, by which"

(3) Subsection 110.4(3) of the said Act is repealed.

(4) Subsections 110.4(4) to (6) of the said Act are repealed and the following substituted therefor:

Death of a taxpayer

"(4) For the purposes of subsection (2), where an individual was resident in Canada throughout the period beginning on the first day of the taxation year in which he died and ending at the time of his death, he shall be deemed to have been resident in Canada throughout that year.

Exception

(5) Subsection (2) does not apply with respect to a return of income filed under subsection 70(2) or 150(4) or paragraph 104(23)(d)."

(5) All that portion of subsection 110.4(6.1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Revocation of election

"(6.1) An election filed by an individual under subsection (2) for a taxation year may be revoked",

(6) Subsection 110.4(8) of the said Act is repealed and the following substituted therefor:

Accumulated averaging amount

"(8) In this section and section 120.1, the accumulated averaging amount of an individual

(a) at the end of any taxation year before 1998 (other than a taxation year in which the individual dies) is the product obtained when

(i) the amount, if any, by which

(A) the individual's accumulated averaging amount at the end of the immediately preceding taxation year

exceeds

(B) the amount specified under subsection (2) by the individual in his election for the year

is multiplied by

(ii) the ratio (adjusted in such manner as may be prescribed and rounded to the nearest one-thousandth or, where the ratio is equidistant from two consecutive one-thousandths, to the higher thereof) that the Consumer Price Index of the 12 month period that ended on the 30th day of September of that year bears to the Consumer Price Index for the 12 month period that ended on the 30th day of September of the immediately preceding year,

(b) at the end of the taxation year before 1998 and in which he dies is

(i) nil, where the individual's tax payable under this Part for that year is computed under section 119, or

(ii) the amount determined under paragraph (a) for the year, in any other cases, and

(c) at any time after 1997 is nil."

(7) Subsections (1) to (4) and (6) are applicable to the 1988 and subsequent taxation years.

(8) Subsection (5) is applicable with respect to elections made for the 1988 and subsequent years.

66.(1) Paragraph (a) of the definition "annual gains limit" in subsection 110.6(1) of the said Act is repealed and the following substituted therefor:

"(a) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties disposed of by him after 1984"

(2) The definition "cumulative gains limit" in subsection 110.6(1) of the said Act is amended by striking out the word "and" at the end of paragraph (b) thereof, by adding the word "and" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(d) his cumulative net investment loss at the end of the year;"

(3) The definition "qualified farm property" in subsection 110.6(1) of the said Act is repealed and the following substituted therefor:

"qualified farm property"
«bien agricole admissible»

""qualified farm property" of an individual at any particular time means a property owned at that time by the individual, the spouse of the individual or a partnership, an interest in which is an interest in a family farm partnership of the individual or his spouse that was

(a) real property used by

(i) the individual,

(ii) where the individual is a trust, a beneficiary referred to in paragraph 104(21.2)(b) of the trust that was related to the person or persons from whom the trust acquired the property,

(iii) a spouse, child or parent of a person referred to in subparagraph (i) or (ii),

(iv) a corporation, a share of the capital stock of which is a share of the capital stock of a family farm corporation of an individual referred to in any of subparagraphs (i) to (iii), or

(v) a partnership, an interest in which is an interest in a family farm partnership of an individual referred to in any of subparagraphs (i) to (iii),

in the course of carrying on the business of farming in Canada and, for the purposes of this definition, property will not be considered to have been used in the course of carrying on the business of farming in Canada at that time unless

(vi) where the property is a property other than a property referred to in subparagraph (vii), the property or property for which the property was substituted was used by a person or partnership referred to in any of subparagraphs (i) to (v) in the course of carrying on the business of farming in Canada

(A) in the year the property was disposed of by the individual, or

(B) in at least five years during which the property was owned by an individual referred to in any of subparagraphs (i) to (iii) or a partnership referred to in subparagraph (v),

(vii) where the property is a property acquired by the individual or a partnership after June 17, 1987 otherwise than pursuant to an agreement in writing entered into on or before that date, the property or property for which the property was substituted was owned by an individual referred to in any of subparagraphs (i) to (iii) or a partnership referred to in subparagraph (v) throughout the period of at least 24 months immediately preceding that time and

(A) in at least 2 years while the property was so owned, the gross revenue of an individual referred to in any of subparagraphs (i) to (iii) from the farming business carried on in Canada in which he used the property and in which he was actively engaged on a regular and continuous basis exceeded his income from all sources for the year, or

(B) the property was used by a corporation referred to in subparagraph (iv) or a partnership referred to in subparagraph (v) in the course of carrying on the business of farming in Canada throughout a period of at least 24 months during which time an individual referred to in any of subparagraphs (i) to (iii) was actively engaged on a regular and continuous basis in the farming business in which the property was used,

(b) a share of the capital stock of a family farm corporation of the individual or the individual's spouse,

(c) an interest in a family farm partnership of the individual or the individual's spouse, or

(d) an eligible capital property used by a person or partnership referred to in any of subparagraphs (a)(i) to (v) in the course of carrying on the business of farming in Canada and, for the purpose of this definition, eligible capital property will not be considered to have been used in the course of carrying on the business of farming in Canada unless the conditions set out in subparagraphs (a)(vi) or (vii), as the case may be, are met."

(4) Subsection 110.6(1) of the said Act is further amended by adding thereto, in alphabetical order within the subsection, the following definitions:

"child"
«enfant»

"" child" has the meaning assigned by paragraph 70(10)(a);

"cumulative net investment loss"
«perte nette cumulative sur placements»

"cumulative net investment loss" of an individual at the end of a taxation year means the amount, if any, by which

(a) the aggregate of all amounts each of which is the investment expense of the individual for the year or a preceding taxation year ending after 1987

exceeds

(b) the aggregate of all amounts each of which is the investment income of the individual for the year or a preceding taxation year ending after 1987;

"interest in a family farm partnership"
«participation dans une société agricole familiale»

"interest in a family farm partnership" has the meaning assigned by paragraph 70(10)(c) and includes an interest in a partnership owned by a trust that was acquired by the trust from an individual and that was, immediately before such acquisition, an interest in a family farm partnership of the individual;

"investment expense"
«frais de placement»

"investment expense" of an individual for a taxation year means the total of

(a) the aggregate of all amounts each of which is an amount (other than an amount deducted under subsection 65(1), 66(4), 66.1(3), 66.2(2) or 66.4(2)) deducted in computing his income for the year from property, except to the extent that the amount was included in computing his investment expense for the year under paragraph (b), (c) or (e),

(b) the aggregate of all amounts each of which is an amount deducted under paragraph 20(1)(c), (d), (e), (f), (k) or (bb) in computing his income for the year from a partnership of which he was a specified member in the fiscal period of the partnership ending in the year,

(c) the aggregate of

(i) all amounts each of which is an amount deducted in computing his income for the year as his share of the amount of any loss of a partnership of which he was a specified member in the fiscal period of the partnership ending in the year, and

(ii) all amounts each of which is an amount deducted under paragraph 111(1)(e) in computing his taxable income for the year.

(d) 50% of the aggregate of all amounts each of which is an amount deducted under subsection 66(4), 66.1(3), 66.2(2) or 66.4(2) in computing his income for the year in respect of expenses incurred by a corporation or by a partnership of which he was a specified member in the fiscal period of the partnership in which the expense was incurred, and

(e) the aggregate of all amounts each of which is the amount of his loss for the year from

(i) property, or

(ii) renting or leasing a rental property (within the meaning assigned by subsection 1100(14) of the Income Tax Regulations)

owned by him or by a partnership of which he was a member, except to the extent that the amount was included in computing his investment expense for the year under paragraph (c);

"investment income"
«revenu de placements»

"investment income" of an individual for a taxation year means the total of

(a) the aggregate of all amounts included in computing his income for the year from property, including, for greater certainty, any amount included under subsection 13(1) in respect of a property the income from which would be income from property, except to the extent that the amount was included in computing his investment income for the year under paragraph (b) or (d),

(b) the aggregate of all amounts each of which is an amount included in computing the individual's income for the year as his share of the income of a partnership of which he was a specified member in the fiscal period of the partnership ending in the year, including, for greater certainty, his share of all amounts included under subsection 13(1) in computing the income of the partnership,

(c) 50% of all amounts included in computing his income for the year under subsection 59(3.2), and

(d) the aggregate of all amounts each of which is an amount included in computing his income for the year from

(i) property, or

(ii) renting or leasing a rental property (within the meaning assigned by subsection 1100(14) of the Income Tax Regulations)

owned by him or by a partnership of which he was a member, except to the extent that the amount was included in computing his investment income for the year under paragraph (b), including, for greater certainty, any amount included under subsection 13(1) in computing his income for the year in respect of rental property or in respect of a property the income from which would be income from property;

"qualified small business corporation share"
«action admissible de petite entreprise»

"qualified small business corporation share" of an individual at any time means a share of the capital stock of a corporation that,

(a) at that time, is a share of the capital stock of a small business corporation owned by the individual or a person or partnership related to the individual,

(b) throughout the 24 months immediately preceding that time, was not owned by anyone other than the individual or a person or partnership related to the individual, and

(c) throughout that part of the 24 months immediately preceding that time while it was owned by the individual or a person or partnership related to the individual, was a share of the capital stock of a Canadian-controlled private corporation more than 50% of the fair market value of the assets of which were comprised of

(i) assets used in an active business carried on primarily in Canada by the corporation or by a corporation related to it,

(ii) shares of the capital stock of or a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by one or more corporations that were connected with the corporation (within the meaning of subsection 186(4) on the assumption that such corporation was at that time a "payer corporation" within the meaning of that subsection) where

(A) throughout the part of the 24 months immediately preceding that time that ends at the time the corporation acquired such shares or obligations, such shares or obligations were not owned by anyone other than the corporation or a person or partnership related to it, and

(B) throughout that part of the 24 months immediately preceding that time while such shares or obligations were owned by the corporation or a person or partnership related to it, they were shares or obligations of Canadian-controlled private corporations more than 50% of the fair market value of the assets of which were comprised of assets described in subparagraph (iii), or

(iii) assets described in either of subparagraphs (i) and (ii)

except that

(d) where all or substantially all of the assets of a corporation are not assets described in subparagraph (c)(iii), the reference in clause (c)(ii)(B) to "more than 50% of the fair market value" shall be read as a reference to "all or substantially all" in respect of other corporations connected with the corporation (within the meaning of subsection 186(4) on the assumption that such other corporation was at that time a "payer corporation" within the meaning of that subsection)

(e) where, at any time in the 24 month period ending at that time, the share was substituted for another share, the share shall be considered to have met the requirements of this definition only where the other share, throughout that part of that 24 month period ending at the time of substitution,

(i) was not owned by any person or partnership other than a person or partnership described in paragraph (b), and

(ii) was a share of the capital stock of a corporation described in paragraph (c), and

(f) where, at any time in the 24 month period ending at that time, a share referred to in subparagraph (c)(ii) was substituted for another share, that share shall be considered to have met the requirements of subparagraph (c)(ii) only where the other share, throughout that part of that 24 month period ending at the time of substitution,

(i) was not owned by any person or partnership other than a person or partnership described in clause (c)(ii)(A), and

(ii) was a share of the capital stock of a corporation described in paragraph (c);

"share of the capital stock of a family farm corporation"
«action du capital-actions d'une corporation agricole familiale»

"share of the capital stock of a family farm corporation" has the meaning assigned by paragraph 70(10)(b) and includes a share of the capital stock of a corporation owned by a trust that was acquired by the trust from an individual and that was, immediately before such acquisition, a share of the capital stock of a family farm corporation of the individual."

(5) All that portion of subsection 110.6(2) of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:

Capital gains deduction - qualified farm property

"(2) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of qualified farm property in the year or a preceding taxation year ending after 1984, there may be deducted such amount as he may claim not exceeding the least of

(a) the amount, if any, by which $375,000 exceeds the total of

(i) the aggregate of all amounts each of which is an amount deducted by the individual under this section in computing his taxable income for a preceding taxation year,

(ii) where the taxation year ended after 1987, 1/3 of the aggregate of all amounts each of which is an amount deducted under this section in computing his taxable income for a taxation year ending before 1988, and

(iii) where the taxation year ended after 1989, 1/8 of the total of

(A) the aggregate of all amounts each of which is an amount deducted under this section in computing his taxable income for a taxation year ending before 1990, and

(B) the amount determined under subparagraph (ii) in respect of the individual for the year;"

(6) Section 110.6 is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

Capital gains deduction - qualified small business corporation shares

"(2.1) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of a share of a corporation in the year or a preceding taxation year and after June 17, 1987 that, at the time of disposition, was a qualified small business corporation share of the individual, there may be deducted such amount as he may claim not exceeding the least of

(a) the amount, if any, by which $375,000 exceeds the total of

(i) the aggregate of all amounts each of which is an amount deducted by the individual under this section in computing his taxable income for a preceding taxation year,

(ii) where the taxation year ended after 1987, the amount determined under subparagraph (2)(a)(ii) in respect of the individual for the year, and

(iii) where the taxation year ended after 1989, the amount determined under subparagraph (2)(a)(iii) in respect of the individual for the year;

(b) the amount, if any, by which his cumulative gains limit at the end of the year exceeds the amount deducted under subsection (2) in computing his taxable income for the year;

(c) the amount, if any, by which his annual gains limit for the year exceeds the amount deducted under subsection (2) in computing his taxable income for the year; and

(d) the amount that would be determined in respect of the individual for the year under paragraph 3(b) (other than an amount included in determining the amount in respect of the individual under paragraph (2)(d)) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified small business corporation shares disposed of by him after June 17, 1987."

(7) Subsections 110.6(3) and (4) of the said Act are repealed and the following substituted therefor:

Capital gains deduction - other property

"(3) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year and who disposed of property (other than a disposition of property to which subsection (2) or (2.1) applies) there may be deducted such amount as he may claim not exceeding the least of

(a) the amount, if any, by which $75,000 exceeds the total of

(i) the aggregate of all amounts each of which is an amount deducted by the individual under this subsection in computing his taxable income for a preceding taxation year,

(ii) where the taxation year ended after 1987, 1/3 of the aggregate of all amounts each of which is an amount deducted under this subsection in computing his taxable income for a taxation year ending before 1988, and

(iii) where the taxation year ended after 1989, 1/8 of the total of

(A) the aggregate of all amounts each of which is an amount deducted under this subsection in computing his taxable income for a taxation year ending before 1990, and

(B) the amount determined under subparagraph (ii) in respect of the individual for the year;

(b) the amount, if any, by which his cumulative gains limit at the end of the year exceeds the aggregate of all amounts each of which is an amount deducted under subsection (2) or (2.1) in computing his taxable income for the year; and

(c) the amount, if any, by which his annual gains limit for the year exceeds the aggregate of all amounts each of which is an amount deducted under subsection (2) or (2.1) in computing his taxable income for the year.

Maximum capital gains deduction

(4) Notwithstanding subsections (2), (2.1) and (3), the total amount that may be deducted under this section in computing the taxable income of an individual for a taxation year shall not exceed the amount, if any, by which $375,000 exceeds the total of

(a) the aggregate of all amounts each of which is an amount deducted by the individual under this section in computing his taxable income for a preceding taxation year;

(b) where the taxation year ended after 1987, the amount determined under subparagraph (2)(a)(ii) in respect of the individual for the year; and

(c) where the taxation year ended after 1989, the amount determined under subparagraph (2)(a)(iii) in respect of the individual for the year."

(8) All that portion of subsection 110.6(5) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"for the purposes of subsections (2), (2.1) and (3) he shall be deemed to have been resident in Canada throughout the particular year."

(9) All that portion of subsection 110.6(6) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Failure to report capital gain

"(6) Notwithstanding subsections (2), (2.1) and (3), where an individual has a capital gain for a taxation year from the disposition of a capital property and knowingly or under circumstances amounting to gross negligence"

(10) All that portion of subsection 110.6(7) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Where deduction not permitted

"(7) Notwithstanding subsections (2), (2.1) and (3), where an individual has a capital gain for a taxation year from the disposition of property as part of a series of transactions or events each of which is effected or to be effected after November 21, 1985"

(11) Paragraph 110.6(7)(b) of the said Act is repealed and the following substituted therefor:

"(b) in which any property is acquired by a corporation or partnership for consideration that is significantly less than the fair market value of the property at the time of acquisition (other than an acquisition as the result of an amalgamation or merger of corporations or the winding-up of a corporation or partnership or a distribution of property of a trust in satisfaction of all or part of a corporation's capital interest in the trust),"

(12) Subsection 110.6(8) of the said Act is repealed and the following substituted therefor:

Idem

"(8) Notwithstanding subsections (2), (2.1) and (3), where an individual has a capital gain for a taxation year from the disposition, after November 21, 1985, of a property and it may reasonably be concluded, having regard to all the circumstances, that a significant part of the capital gain is attributable to the fact that dividends were not paid on a share (other than a prescribed share) of a corporation or that dividends paid on such a share in the year or in any preceding taxation year were less than 90% of the average annual rate of return thereon for that year, no amount in respect of that capital gain shall be deducted under this section in computing his taxable income for the year."

(13) Subsection 110.6(10) of the said Act is repealed.

(14) Subsection 110.6(12) of the said Act is repealed and the following substituted therefor:

Spousal trust deduction

"(12) Notwithstanding any other provision of this Act, a trust described in paragraph 104(4)(a) may, in computing its taxable income for its taxation year in which the taxpayer's spouse referred to in that paragraph died, deduct under this section an amount equal to the least of

(a) the amount, if any, by which the eligible taxable capital gains (within the meaning assigned by paragraph 108(1)(d.2)) of the trust for that year exceeds the amount, if any, by which

(i) the aggregate of all amounts each of which is the amount, if any, determined under paragraph (b) or (d) of the definition "cumulative gains limit" in subsection (1) in respect of the taxpayer's spouse at the end of the taxation year in which the spouse died

exceeds

(ii) the amount if any, determined under paragraph (a) of the definition "cumulative gains limit" in subsection (1) in respect of the taxpayer's spouse at the end of the taxation year in which the spouse died;

(b) the aggregate of

(i) the lesser of

(A) the amount, if any, that would be determined in respect of the trust for that year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were properties disposed of by it after 1984, other than properties referred to in subparagraph (ii), and

(B) the amount, if any, by which $75,000 exceeds the total of

(I) the aggregate of all amounts each of which is an amount deducted by the taxpayer's spouse under subsection (3) for the taxation year in which the spouse died or a preceding taxation year, and

(II) the aggregate of all amounts each of which is an amount determined under subparagraph (3)(a)(ii) or (iii) in respect of the taxpayer's spouse for the taxation year in which the spouse died, and

(ii) the amount, if any, that would be determined in respect of the trust for that year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm properties disposed of by it after 1984 and qualified small business corporation shares disposed of by it after June 17, 1987; and

(c) the amount, if any, by which $375,000 exceeds the total of

(i) the aggregate of all amounts each of which is an amount deducted by the taxpayer's spouse under this section for the taxation year in which the spouse died or a preceding taxation year, and

(ii) the aggregate of all amounts each of which is an amount determined under subparagraph (2)(a)(ii) or (iii) in respect of the taxpayer's spouse for the taxation year in which the spouse died."

(15) Section 110.6 of the said Act is further amended by adding thereto the following subsection:

Related persons, etc.

"(14) For the purposes of the definition "qualified small business corporation share" in subsection (1),

(a) a taxpayer shall be deemed to have disposed of shares that are identical properties in the order in which he acquired them,

(b) in determining whether a corporation is a small business corporation at any time, rights referred to in paragraph 251(5)(b) shall not include rights under a purchase and sale agreement relating to a share of the capital stock of a corporation,

(c) a trust shall be deemed to be related to a person or partnership for any period throughout which the person or partnership was a beneficiary of the trust,

(d) a partnership shall be deemed to be related to a person for any period throughout which the person was a member of the partnership, and

(e) a corporation (in this paragraph referred to as the "holding corporation") shall be deemed to be related to a person from whom it acquired shares of a class of the capital stock of another corporation in respect of those shares if, immediately after the acquisition, the person owned the same number of shares of that class as he owned immediately before the acquisition and, for the purposes of this paragraph, the person shall be deemed immediately after the acquisition to own that proportion of the number of shares of that class held by the holding corporation that

(i) the fair market value of the shares of the capital stock of the holding corporation owned by the person immediately after the acquisition

is of

(ii) the fair market value of all the issued shares of the capital stock of the holding corporation outstanding immediately after the acquisition."

(16) Subsections (1) to (15) are applicable to the 1988 and subsequent taxation years except that

(a) paragraphs (a), (c) and (e) of the definition "investment expense", as enacted by subsection (4), are not applicable before 1989 with respect to amounts deducted under paragraph 20(1)(a) of the said Act in respect of a certified production (within the meaning assigned by subsection 1104(2) of the Income Tax Regulations) of a taxpayer or a partnership that is property included in paragraph (n) of Class 12 of Schedule II of the Income Tax Regulations;

(b) the definition "qualified small business corporation share" in subsection 110.6(1) of the said Act, as enacted by subsection (4), and subsection 110.6(14) of the said Act, as enacted by subsection (15), are applicable with respect to dispositions of shares after June 17, 1987;

(c) for the 1988 and 1989 taxation years the references to "$375,000" in paragraphs 110.6(2)(a) and (2.1)(a) and subsections 110.6(4) and (12) of the said Act, as enacted by subsections (5), (6), (7) and (14), shall be read as references to "$333,333";

(d) for the 1988 and 1989 taxation years the references to "$75,000" in paragraphs 110.6(3)(a) and (12)(b) of the said Act, as enacted by subsections (7) and (14), shall be read as references to "$66,667"; and

(e) in applying subsection 110.6(10) of the said Act for taxation years ending after 1984 and before 1988 it shall be read as follows:

"(10) Notwithstanding subsections (2) and (3), where an individual has a capital gain for a taxation year arising as a result of his granting, after November 21, 1985, an extension or renewal of an option to acquire property, other than qualified farm property, no amount in respect of that capital gain shall be deducted under this section in computing his taxable income for the year."

67.(1) Clause 110.7(1)(d)(i)(C) of the said Act is repealed and the following substituted therefor:

"(C) is not included in determining an amount deducted under subsection 118.2(1) for the year or any other taxation year, and"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

68.(1) Paragraph 111(1)(b) of the said Act is repealed and the following substituted therefor:

Net capital losses

"(b) his net capital losses for taxation years preceding and the three taxation years immediately following the year;"

(2) Section 111 of the said Act is amended by adding thereto immediately after subsection (1) thereof, the following subsection:

Net capital losses

"(1.1) Notwithstanding paragraph (1)(b), where a taxpayer has claimed an amount under that paragraph for a particular taxation year in respect of his net capital losses, the amount that may be deducted under that paragraph in respect of those losses for that year is the lesser of

(a) the aggregate of

(i) the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the particular year, and

(ii) where the taxpayer is an individual, the lesser of

(A) $2,000, and

(B) his pre-1986 capital loss balance for the particular year; and

(b) the aggregate of all amounts each of which is an amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the amount of a net capital loss for a taxation year (in this paragraph referred to as a "loss year") claimed under paragraph 111(1)(b),

B is the fraction that would be used for the particular year under section 38 in respect of the taxpayer if he had a capital loss for that year, and

C is the fraction required to be used under section 38 in respect of the taxpayer for the loss year."

(3) Subsection 111(2) of the said Act is repealed and the following substituted therefor:

Year of death

"(2) Where a taxpayer dies in a taxation year, for the purposes of computing his taxable income for that year and the immediately preceding taxation year, subsection (1.1) shall be read as follows:

"(1.1) Notwithstanding paragraph (1)(b), where a taxpayer has claimed an amount under that paragraph for a particular year in respect of his net capital losses, the amount that may be deducted under that paragraph in respect of those losses (to the extent they are not deducted in computing his income for any other taxation year) for that year is the aggregate of

(a) an amount not exceeding the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the particular year, equal to the aggregate of all amounts each of which is an amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the net capital losses for a taxation year (in this paragraph referred to as a "loss year") claimed under paragraph (1)(b), B is the fraction that would be used for the particular year under section 38 in respect of the taxpayer if he had a capital loss for that year, and

C is the fraction required to be used under section 38 in respect of the taxpayer for the loss year; and

(b) the amount, if any, by which

(i) his net capital losses claimed under paragraph (1)(b) for the particular year

exceeds the aggregate of

(ii) the amount of his net capital losses claimed under paragraph (1)(b) that was determined under paragraph (a) for the particular year, and

(iii) the aggregate of all amounts each of which is an amount deducted by the taxpayer under section 110.6 in computing his taxable income for a taxation year.""

(4) Subparagraph 111(3)(a)(i) of the said Act is repealed and the following substituted therefor:

"(i) amounts deducted under this section in respect of that non-capital loss, restricted farm loss, farm loss or limited partnership loss in computing taxable income for taxation years preceding the particular taxation year,

(i.1) the amount that was claimed under paragraph (1)(b) in respect of that net capital loss for taxation years preceding the particular taxation year, and"

(5) Paragraph 111(5.2)(a) of the said Act is repealed and the following substituted therefor:

"(a) 3/4 of the fair market value of the eligible capital property in respect of the business, and"

(6) Clause 111(8)(b)(i)(A) of the said Act is repealed and the following substituted therefor:

"(A) the aggregate of all amounts each of which is the taxpayer's loss for the year from an office, employment, business or property, his allowable business investment loss for the year, an amount deducted under section 110.6 or an amount deductible under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j), section 112 or subsection 113(1) or 138(6) in computing his taxable income for the year"

(7) All that portion of paragraph 111(8)(b.2) of the said Act following clause (ii)(C) thereof is repealed and the following substituted therefor:

"exceeds the total of

(iii) the aggregate of amounts deducted under section 110.6 in computing his taxable income for taxation years preceding 1988,

(iv) 3/4 of the aggregate of amounts deducted under section 110.6 in computing his taxable income for taxation years preceding the particular year and ending after 1987 and before 1990, and

(v) 2/3 of the aggregate of amounts deducted under section 110.6 in computing his taxable income for taxation years preceding the particular year and ending after 1989; and"

(8) Subsections (1) to (4) are applicable with respect to computations of taxable incomes for the 1985 and subsequent taxation years.

(9) Subsection (5) is applicable to acquisitions of control of a corporation occurring after the commencement of the corporation's first taxation year commencing after June, 1988.

(10) Subsections (6) and (7) are applicable to the 1988 and subsequent taxation years.

69.(1) Section 111.1 of the said Act is repealed and the following substituted therefor:

Order of applying provisions

"111.1 In computing the taxable income of an individual for a taxation year, the provisions of this division shall be applied in the following order: subsection 110.4(2) and sections 110, 111, 110.6 and 110.7."

(2) Subsection (1) is applicable to the 1987 and subsequent taxation years, except that for the 1987 taxation year the reference in section 111.1 of the said act, as enacted by subsection (1), to "subsection 110.4(2) and sections 110, 111, 110.6 and 110.7" shall be read as "subsection 110.4(2), sections 109, 110.1, 110.2, 110, 110.3, 111, 110.6 and 110.7 and subsection 110.4(1)".

70.(1) Paragraph 114(a) of the said Act is repealed and the following substituted therefor:

> "(a) his income for the period or periods in the year throughout which he was resident in Canada, was employed in Canada or was carrying on business in Canada, computed as though such period or periods were the whole taxation year and as though any disposition of property deemed by subsection 48(1) to have been made by reason of the taxpayer having ceased to be resident in Canada were made in such period or periods, and"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

71.(1) Section 114.2 of the said Act is repealed and the following substituted therefor:

Deductions in separate returns

"114.2 Where a separate return of income with respect to a taxpayer is filed under subsection 70(2), 104(23) or 150(4) for a particular period and another return of income under this Part with respect to the taxpayer is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the taxable income under this Part of the taxpayer in such returns, the aggregate of all deductions claimed in all such returns under section 110 shall not exceed the aggregate that could be deducted under that section for the year with respect to the taxpayer if no separate returns were filed under subsections 70(2), 104(23) and 150(4)."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

72.(1) All that portion of subsection 115(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Non-resident's taxable income in Canada

"115(1) For the purposes of this Act, the taxable income earned in Canada for a taxation year of a person who at no time in the year is resident in Canada is the amount of his income for the year that would be determined under section 3 if"

(2) Paragraph 115(1)(d) of the said Act is repealed and the following substituted therefor:

"(d) the deductions permitted by paragraphs 110(d), (d.1), (d.2), (f) and (i) and subsection 110.1(1),"

(3) Subsections (1) and (2) are applicable to the 1988 and subsequent taxation years.

73.(1) Paragraph 116(2)(a) of the said Act is repealed and the following substituted therefor:

"(a) paid to the Receiver General, as or on account of tax under this Part payable by him for the year, 33 1/3% of the amount, if any, by which the estimated amount set forth in the notice in accordance with paragraph (1)(c) exceeds the amount set forth in the notice in accordance with paragraph (1)(d), or"

(2) Paragraph 116(4)(a) of the said Act is repealed and the following substituted therefor:

"(a) paid to the Receiver General, as or on account of tax under this Part payable by him for the year, 33 1/3% of the amount, if any, by which the proceeds of disposition of the property exceed the adjusted cost base to him of the property immediately before the disposition, or"

(3) Clause 116(5)(a)(ii)(B) of the said Act is repealed and the following substituted therefor:

"(B) 33 1/3% of the amount, if any, by which the cost to the purchaser of the property so acquired exceeds the certificate limit fixed by the certificate issued under subsection (2) in respect of the disposition of the property by the non-resident person to the purchaser,"

(4) Subsections (1) to (3) are applicable to disposition occurring after 1987, except that with respect to disposition occurring before 1990, the references to "33 1/3%" in paragraphs 116(2)(a) and 116(4)(a) and clause 116(5)(a)(ii)(B) of the said Act, as enacted by subsections (1), (2) and (3), shall be read as references to "30%".

74.(1) Subsection 117(1) of the said Act is repealed and the following substituted therefor:

Tax payable under this Part

"117.(1) For the purposes of this Division, except section 120 (other than subparagraph (4)(c)(ii) thereof) and section 120.1 (other than subsection (2) thereof), tax payable under this Part, tax otherwise payable under this Part and tax under this Part shall be computed as if this Part were read without reference to Division E.1."

(2) Section 117 of the said Act is further amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

1988 and subsequent taxation years rates

"(2) The tax payable under this Part by an individual upon his taxable income or taxable income earned in Canada, as the case may be, (in this subdivision referred to as the "amount taxable") for the 1988 and subsequent taxation years is

(a) 17% of the amount taxable if the amount taxable does not exceed $27,500;

(b) $4,675 plus 26% of the amount by which the amount taxable exceeds $27,500 if the amount taxable exceeds $27,500 and does not exceed $55,000; and

(c) $11,825 plus 29% of the amount by which the amount taxable exceeds $55,000."

(3) Subsection 117(5.2) of the said Act is repealed.

(4) Subsection 117(7) of the said Act is repealed and the following substituted therefor:

Notch provision

"(7) Where the tax otherwise payable under this Part for a taxation year by an individual is greater than the aggregate of

(a) the tax that would be so payable if, in computing his tax payable under this Part for the year, the individual could deduct under section 118.2 payments described in that section made in respect of a person who, had the person's income for the year been nil, would have been a dependant of the individual (in respect of whom the individual could have deducted an amount under section 118 in computing his tax payable under this Part for the year) and

(b) 68% of the amount by which the income for the year of the person referred to in paragraph (a) exceeds $6,000,

the tax otherwise payable under this Part for the year may be reduced to that aggregate."

(5) Subsection (1) is applicable to the 1987 and subsequent taxation years.

(6) Subsections (2) to (4) are applicable to the 1988 and subsequent taxation years.

75.(1) Section 117.1 of the said Act is repealed and the following substituted therefor:

Annual adjustment

"117.1(1) Each of

(a) the amounts of $5,000 and $6,000 referred to in paragraphs 118(1)(a) and (b) and in subsection (2), and

(b) the amounts expressed in dollars in subsections 117(2) and (7), paragraphs 118(1)(c) and (d), subsections 118(2), 118.1(3), 118.2(1), 118.3(1) and 122.2(1)

shall be adjusted for each taxation year after 1988 so that the amount to be used for the year is an amount equal to the aggregate of

(c) the amount that would, but for subsection (3), be the amount to be used for the immediately preceding taxation year; and

(d) the product obtained by multiplying

(i) the amount referred to in paragraph (c) by

(ii) the amount, adjusted in such manner as may be prescribed and rounded to the nearest one-thousandth, or, where the result obtained is equidistant from two consecutive one-thousandths, to the higher thereof, that is determined by the formula

$$\frac{A}{B} - 1.03$$

where

A is the Consumer Price Index for the 12 month period that ended on September 30 next before that year, and

B is the Consumer Price Index for the 12 month period immediately preceding the period mentioned in the description of A.

Idem

(2) The amount of $500 referred to in subparagraphs 118(1)(a)(ii) and (b)(iv) shall be adjusted for each taxation year after 1988 so that the amount to be used for the year is the amount determined by the formula

$$\frac{1}{2} \times (\$6,000 - \$5,000)$$

Rounding

(3) Where an amount referred to in this section, when adjusted as provided in this section, is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, where it is equidistant from two such consecutive multiples, to the higher thereof.

Consumer Price Index

(4) In this section, the Consumer Price Index for any 12 month period is the result arrived at by

(a) aggregating the Consumer Price Index, as published by Statistics Canada under the authority of the *Statistics Act*, adjusted in such manner as may be prescribed by regulation, for each month in that period;

(b) dividing the aggregate obtained under paragraph (a) by twelve; and

(c) rounding the result obtained under paragraph (b) to the nearest one-thousandth or, where the result obtained is equidistant from two consecutive one-thousandths, to the higher thereof."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

76.(1) The said Act is further amended by adding thereto, immediately after section 117.1 thereof, the following sections:

Personal credits

"118.(1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year, and

B is the aggregate of,

Married status

(a) in the case of an individual who at any time in the year is a married person who supports his spouse, an amount equal to the aggregate of

(i) $6,000, and

(ii) an amount determined by the formula

$$\$5{,}000 - (C - \$500)$$

where

C is the greater of $500 and the income of the individual's spouse for the year or, where the individual and the individual's spouse are living separate and apart at the end of the year by reason of a breakdown of their marriage, the spouse's income for the year while married and not so separated;

Wholly dependent person

(b) in the case of an individual not entitled to a deduction by reason of paragraph (a) who, at any time in the year,

(i) is an unmarried person or a married person who neither supported nor lived with his spouse and is not supported by his spouse, and

(ii) whether by himself or jointly with one or more other persons, maintains a self-contained domestic establishment (in which the individual lives) and actually supports therein a person who, at that time, is

(A) except in the case of a child of the individual, resident in Canada,

(B) wholly dependent for support on the individual, or the individual and such other person or persons, as the case may be,

(C) related to the individual, and

(D) except in the case of a parent or grandparent of the individual, either under 18 years of age or so dependent by reason of mental or physical infirmity,

an amount equal to the aggregate of

(iii) \$6,000, and

(iv) an amount determined by the formula

$$\$5,000 - (D - \$500)$$

where

D is the greater of \$500 and the income for the year of the dependent person;

Single status

(c) except in the case of an individual entitled to a deduction by reason of paragraph (a) or (b), \$6,000; and

Dependants

(d) for each dependant of the individual for the year, an amount equal to

(i) if the dependant was under the age of 18 years at any time in the year, an amount determined by the formula

$$\$383 - (E - \$2{,}500)$$

where

E is the greater of $2,500 and the income for the year of the dependant,

except that where the individual has more than 2 such dependants for the year, the reference to the amount "$383" in the formula under this subparagraph shall, in respect of all but 2 of those dependants, be read as twice that amount, and

(ii) in the case of a person dependent on the individual by reason of mental or physical infirmity and to whom subparagraph (i) does not apply, an amount determined by the formula

$$\$1{,}471 - (F - \$2{,}500)$$

where

F is greater of $2,500 and the income for the year of the dependant.

Age credit

(2) For the purpose of computing the tax payable under this Part for a taxation year by an individual who, before the end of the year, has attained the age of 65 years, there may be deducted an amount determined by the formula

$$A \times \$3{,}236$$

where

A is the appropriate percentage for the year.

Pension credit

(3) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted,

(a) where the individual has attained the age of 65 years before the end of the year, an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year, and

B is the lesser of $1,000 and the pension income received by the individual in the year; and

(b) where the individual (other than an individual referred to in paragraph (a)) has before the end of the year

(i) attained the age of 60 years,

(ii) received a disability pension or survivor's pension under the Canada Pension Plan or under a provincial pension plan as defined in section 3 of that Act, or

(iii) not attained the age of 60 years, and has not deducted in computing his income for the year an amount under paragraph 60(j) (other than in respect of an amount included in computing his income pursuant to subsection 147(10), which amount was received in satisfaction of all his rights and entitlements under a deferred profit sharing plan),

an amount determined by the formula

$$A \times B$$

where

A is the appropriate percentage for the year, and

B is the lesser of $1,000 and the qualified pension income received by the individual in the year.

Limitations re. subsection (1)

(4) For the purposes of subsection (1), the following rules apply:

(a) no amount may be deducted under subsection (1) by reason of paragraphs (a) and (b) thereof by an individual in a taxation year for more than one other person;

(b) not more than one individual is entitled to a deduction under subsection (1) by reason of paragraph (b) thereof for a taxation year in respect of the same person or the same domestic establishment and where two or more individuals otherwise entitled to such a deduction fail to agree as to the individual by whom the deduction may be made, no such deduction for the year shall be allowed to any of them;

(c) where an individual is entitled to a deduction under subsection (1) by reason of paragraph (b) thereof for any person described therein, neither the individual nor any other individual is entitled to a deduction under subsection (1) by reason of paragraph (d) thereof for that person;

(d) no amount may be deducted under subsection (1) by reason of paragraph (d) thereof by an individual for a taxation year for a person in respect of whom an allowance referred to in subsection 56(5) has been paid in the year, except to the extent of the proportion of the allowance paid in the year in respect of the person that has been included in computing the individual's income for the year; and

(e) where more than one individual is, in respect of a taxation year, entitled to deduct an amount under subsection (1) by reason of paragraph (d) thereof for the same dependant, the aggregate of all amounts so deductible for the year shall not exceed the maximum amount that would be deductible by reason of that paragraph for the year by any one of those individuals for that dependant if that individual were the only individual entitled to deduct an amount for the year by reason of that paragraph for that dependant and, where the individuals cannot agree as to what portion of the amount each can so deduct, the Minister may fix the portions.

Alimony and maintenance

(5) Where an individual in computing his income for a taxation year is entitled to a deduction under paragraph 60(b), (c) or (c.1) in respect of a payment for the maintenance of a spouse or child, the spouse or child shall, for the purposes of this section (other than the definition "qualified pension income" in subsection (7)) be deemed not to be the spouse or child of the individual.

"Dependant" defined

(6) For the purposes of paragraphs (1)(d) and (4)(e), "dependant" of an individual for a taxation year means a person who at any time in the year is dependent upon the individual for support and is

(a) the child or grandchild of the individual or of the individual's spouse; or

(b) the parent, grandparent, brother, sister, uncle, aunt, niece or nephew, if resident in Canada at any time in the year, of the individual or of the individual's spouse.

Definitions

(7) Subject to subsection (8), for the purposes of subsection (3),

"pension income"
«revenu de pension»

"pension income" received by an individual in a taxation year means the total of

(a) the aggregate of all amounts each of which is an amount included in computing his income for the year that is

(i) a payment in respect of a life annuity out of or under a superannuation or pension fund or plan,

(ii) an annuity payment under a registered retirement savings plan, under an "amended plan" as referred to in subsection 146(12) or under an annuity in respect of which an amount is included in computing the individual's income by reason of paragraph 56(1)(d.2),

(iii) a payment out of or under a registered retirement income fund or under an "amended fund" as referred to in subsection 146.3(11),

(iv) an annuity payment under a deferred profit sharing plan or under a "revoked plan" as referred to in subsection 147(15),

(v) a payment described in subparagraph 147(2)(k)(v), or

(vi) the amount by which an annuity payment included in computing the individual's income for the year by reason of paragraph 56(1)(d) exceeds the capital element of that payment as determined or established under paragraph 60(a), and

(b) the aggregate of all amounts each of which is an amount included in computing the individual's income for the year by reason of section 12.2 or paragraph 56(1)(d.1);

"qualified pension income"
«revenu de pension admissible»

"qualified pension income" received by an individual in a taxation year means the aggregate of all amounts each of which is an amount included in computing his income for the year and described in

(a) subparagraph (a)(i) of the definition "pension income", or

(b) any of subparagraphs (a)(ii) to (v) or paragraph (b) of the definition "pension income" received by the individual as a consequence of the death of the individual's spouse.

Idem

(8) For the purposes of subsection (3), "pension income" and "qualified pension income" received by an individual do not include any amount that is

(a) the amount of a pension or supplement under the Old Age Security Act or of any similar payment under a law of a province;

(b) the amount of a benefit under the Canada Pension Plan or under a provincial pension plan as defined in section 3 of that Act;

(c) a death benefit;

(d) the amount, if any, by which

(i) an amount required to be included in computing the individual's income for the year

exceeds

(ii) the amount, if any, by which the amount referred to in subparagraph (i) exceeds the aggregate of all amounts deducted by the individual for the year in respect of that amount; or

(e) a payment received out of or under a salary deferral arrangement, a retirement compensation arrangement, an employee benefit plan, an employee trust or a prescribed provincial pension plan.

Definitions

118.1(1) In this section

"total charitable gifts"
«total des dons de charité»

"total charitable gifts" of an individual for a taxation year means the aggregate of all amounts each of which is the amount of a gift made by the individual in the year or in one of the 5 immediately preceding taxation years to

(a) a registered charity,

(b) a registered Canadian amateur athletic association,

(c) a housing corporation resident in Canada and exempt from tax under this Part by paragraph 149(1)(i),

(d) a Canadian municipality,

(e) the United Nations or an agency thereof,

(f) a university outside Canada prescribed to be a university the student body of which ordinarily includes students from Canada, or

(g) a charitable organization outside Canada to which Her Majesty in right of Canada has made a gift during the individual's taxation year or the 12 months immediately preceding that taxation year,

to the extent that the amounts of those gifts have been neither

(h) deducted in computing his taxable income for a taxation year preceding 1988, nor

(i) used in determining an amount that has been deducted under this section in computing his tax payable under this Part for a preceding taxation year,

but, where the individual has claimed a deduction under subsection 110(2) in computing his taxable income for a taxation year, does not include the amount of any gift made in that year;

"total Crown gifts"
«total des dons à l'État»

"total Crown gifts" of an individual for a taxation year means the aggregate of all amounts each of which is the amount of a gift made by the individual in the year or in one of the 5 immediately preceding taxation years to Her Majesty in right of Canada or to Her Majesty in right of a province, to the extent that the amounts of those gifts have been neither

(a) deducted in computing his taxable income for a taxation year preceding 1988, nor

(b) used in determining an amount that has been deducted under this section in computing his tax payable under this Part for a preceding taxation year;

"total cultural gifts"
«total des dons de biens culturels»

"total cultural gifts" of an individual for a taxation year means the aggregate of all values each of which is the value of a gift

(a) of an object that the Canadian Cultural Property Export Review Board has determined meets all of the criteria set out in paragraphs 23(3)(b) and (c) of the Cultural Property Export and Import Act,

(b) that is neither included in the total charitable gifts or the total Crown gifts of the individual for the year, nor would have been so included in a preceding taxation year had this section been applicable to that preceding year, and

(c) that was made by the individual in the year or in one of the 5 immediately preceding taxation years to an institution or public authority in Canada that was, at the time the gift was made, designated under subsection 26(2) of the Cultural Property Export and Import Act either generally or for a purpose related to the object referred to in paragraph (a)

to the extent that the values of those gifts have been neither

(a) deducted in computing his taxable income for a taxation year preceding 1988, nor

(b) used in determining an amount that has been deducted under this section in computing his tax payable under this Part for a preceding taxation year;

"total gifts"
«total des dons»

"total gifts" of an individual for a taxation year means the aggregate of

(a) the lesser of

(i) his total charitable gifts for the year, and

(ii) 1/5 of his income for the year computed without reference to subsection 137(2),

(b) his total Crown gifts for the year, and

(c) his total cultural gifts for the year.

Proof of gift

(2) A gift shall not be included in the total charitable gifts, total Crown gifts or total cultural gifts of an individual unless the making of the gift is proven by filing with the Minister a receipt therefor that contains prescribed information.

Deduction by individuals for gifts

(3) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted such amount as the individual may claim not exceeding an amount determined by the formula

$$(A \times B) + C (D - B)$$

where

A is the appropriate percentage for the year;

B is the lesser of $250 and his total gifts for the year;

C is the highest percentage referred to in subsection 117(2) that is applicable in determining tax that might be payable under this Part for the year; and

D is the greater of

(a) the value determined for B under this subsection in respect of the individual for the year, and

(b) the individual's total gifts for the year.

Time of gift

(4) For the purposes of this section, a gift made by an individual in the taxation year in which he dies shall be deemed to have been made by him in the immediately preceding taxation year to the extent that an amount in respect thereof is not deducted in computing his tax payable under this Part for the taxation year in which he dies.

Gift by will

(5) Where an individual by his will makes a gift to a donee described in subsection (1), the gift shall, for the purposes of this section, be deemed to have been made by the individual in the taxation year in which he dies.

Gift of capital property

(6) Where, at any time, whether by his will or otherwise, an individual makes a gift of

(a) capital property to a donee described in the definition "total charitable gifts" or "total Crown gifts" in subsection (1), or

(b) in the case of an individual who is a non-resident person, real property situated in Canada to a prescribed donee who provides an undertaking, in a form satisfactory to the Minister, to the effect that such property will be held for use in the public interest,

and the fair market value of the property at that time exceeds its adjusted cost base to the taxpayer, such amount, not greater than the fair market value and not less than the adjusted cost base to the taxpayer of the property at that time, as is designated by the individual or his legal representative in the individual's return of income under section 150 for the year in which the gift is made shall, if the making of the gift is proven by filing with the Minister a receipt containing prescribed information, be deemed to be the individual's proceeds of disposition of the property and the amount of the gift made by the individual.

Gifts of art

(7) Where at any time after 1984, whether by his will or otherwise, an individual makes a gift of a work of art created by him that is property in his inventory to a donee described in the definition "total charitable gifts" or "total Crown gifts" in subsection (1), and the fair market value of the work of art at that time exceeds its cost amount to him, such amount, not greater than the fair market value and not less than the cost amount to the individual of the work of art at that time, as is designated by him or his legal representative in the individual's return of income under section 150 for the year in which the gift is made shall, if the making of the gift is proven by filing with the Minister a receipt containing prescribed information, be deemed to be the individual's proceeds of disposition of the work of art and the amount of the gift made by him.

Gifts made by partnership

(8) Where an individual is, at the end of a fiscal period of a partnership, a member of the partnership, his share of any amount that would, if the partnership were a person, be a gift made by the partnership to any donee shall, for the purposes of this section, be deemed to be a gift made by the individual to that donee in the individual's taxation year in which the fiscal period of the partnership ends.

Commuter's charitable donations

(9) Where throughout a taxation year an individual resided in Canada near the boundary between Canada and the United States, if

(a) he commuted to his principal place of employment or business in the United States, and

(b) his chief source of income for the year was that employment or business,

a gift made by him in the year to a religious, charitable, scientific, literary or educational organization created or organized in or under the laws of the United States that would be allowed as a deduction under the United States Internal Revenue Code shall, for the purpose of the definition "total charitable gifts" in subsection (1), be deemed to have been made to a registered charity.

Medical expense credit

118.2(1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

$$A (B - C)$$

where

A is the appropriate percentage for the year;

B is the aggregate of the individual's medical expenses that are proven by filing receipts therefor with the Minister, that were not included in determining a deduction for medical expenses for a preceding taxation year and that were paid by either the individual or his legal representative,

(a) where the individual died in the year, within any period of 24 months that includes the day of death, and

(b) in any other case, within any period of 12 months ending in the year; and

C is the lesser of $1,500 and 3% of the individual's income for the year.

Medical expenses

(2) For the purposes of subsection (1), a medical expense of an individual is an amount paid

(a) to a medical practitioner, dentist or nurse or a public or licensed private hospital in respect of medical or dental services provided to a person (in this subsection referred to as the "patient") who is the individual, the individual's spouse or any dependant in respect of whom the individual may deduct an amount under section 118 from tax payable under this Part by the individual for the taxation year in which the expense was incurred;

(b) as remuneration for one full-time attendant upon, or for the full-time care in a nursing home of, the patient who has a severe and prolonged mental or physical impairment that has been certified as such in prescribed form by a medical doctor or, where the impairment is an impairment of sight, by a medical doctor or an optometrist;

(c) as remuneration for one full-time attendant upon the patient in a self-contained domestic establishment in which the patient lives, if

(i) the patient is, and has been certified by a medical practitioner to be, a person who, by reason of mental or physical infirmity, is and is likely to be for a long-continued period of indefinite duration dependent on others for his personal needs and care and who, as a result thereof, requires a full-time attendant,

(ii) the attendant is not

(A) a person in respect of whom the individual or the individual's spouse has deducts an amount under section 118 from tax payable under this Part by the individual for the taxation year in which the remuneration is paid, or

(B) at the time the remuneration is paid, under 18 years of age and connected with the individual or the individual's spouse by blood relationship, marriage or adoption, and

(iii) each receipt filed with the Minister to prove payment of the remuneration contains the Social Insurance Number of the person who issued the receipt;

(d) for the full-time care in a nursing home of the patient, who has been certified by a medical practitioner to be a person who, by reason of lack of normal mental capacity, is and in the foreseeable future will continue to be dependent on others for his personal needs and care;

(e) for the care, or the care and training, at a school, institution or other place of the patient, who has been certified by an appropriately qualified person to be a person who, by reason of a physical or mental handicap, requires the equipment, facilities or personnel specially provided by that school, institution or other place for the care, or the care and training, of individuals suffering from the handicap suffered by the patient;

(f) for transportation by ambulance to or from a public or licensed private hospital for the patient;

(g) to a person engaged in the business of providing transportation services, to the extent that the payment is made for the transportation of

> (i) the patient, and
>
> (ii) one individual who accompanied the patient, where the patient was, and has been certified by a medical practitioner to be, incapable of travelling without the assistance of an attendant

from the locality where the patient dwells to a place, not less than 40 kilometres from that locality, where medical services are normally provided, or from that place to that locality, if

> (iii) substantially equivalent medical services are not available in that locality,
>
> (iv) the route travelled by the patient is, having regard to the circumstances, a reasonably direct route, and
>
> (v) the patient travels to that place to obtain medical services for himself and it is reasonable, having regard to the circumstances, for the patient to travel to that place to obtain those services;

(h) for reasonable travelling expenses incurred in respect of the patient (who was, and has been certified by a medical practitioner to be, incapable of travelling without the assistance of an attendant) and one individual who accompanied the patient to obtain medical services in a place that is not less than 80 kilometres from the locality where the patient dwells if the circumstances described in subparagraphs (g)(iii), (iv) and (v) apply;

(i) for or in respect of an artificial limb, iron lung, rocking bed for poliomyelitis victims, wheel chair, crutches, spinal brace, brace for a limb, iliostomy or colostomy pad, cloth diapers or disposable briefs for use by persons who are incontinent by reason of illness, injury or affliction, truss for hernia, artificial eye, laryngeal speaking aid, aid to hearing or artificial kidney machine for the patient;

(j) for eye glasses or other devices for the treatment or correction of a defect of vision of the patient as prescribed by a medical practitioner or optometrist;

(k) for an oxygen tent or other equipment necessary to administer oxygen or for insulin, oxygen, liver extract injectible for pernicious anaemia or vitamin B12 for pernicious anaemia, for use by the patient as prescribed by a medical practitioner;

(l) on behalf of the patient who is totally blind or profoundly deaf,

> (i) for a dog trained to guide or assist a blind or deaf person and provided by a person or organization one of whose main purposes is the training of such dogs,
>
> (ii) for the care and maintenance of such a dog, including food and veterinarian care,
>
> (iii) for reasonable travelling expenses of the patient incurred in travelling to and from a school, institution or other place that trains blind or deaf persons in the handling of such dogs, and
>
> (iv) for reasonable board and lodging expenses of the patient incurred while he is required to live away from his ordinary place of residence because he is in full-time attendance at a school, institution or other place that trains blind or deaf persons in the handling of such dogs;

(m) for any device or equipment, not described in any other paragraph of this subsection, of a prescribed kind, for use by the patient as prescribed by a medical practitioner;

(n) for drugs, medicaments or other preparations or substances (except those described in paragraph (k)) manufactured, sold or represented for use in the diagnosis, treatment or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof or in restoring, correcting or modifying an organic function, purchased for use by the patient as prescribed by a medical practitioner or dentist and as recorded by a pharmacist;

(o) for laboratory, radiological or other diagnostic procedures or services together with necessary interpretations, for maintaining health, preventing disease or assisting in the diagnosis or treatment of any injury, illness or disability, for the patient as prescribed by a medical practitioner or dentist;

(p) to a person authorized under the laws of a province to carry on the business of a dental mechanic, for the making or repairing of an upper or lower denture, or for the taking of impressions, bite registrations and insertions in respect of the making, producing, constructing and furnishing of an upper of lower denture, for the patient; or

(q) as a premium, contribution or other consideration to a private health services plan in respect of one or more of the individual, the individual's spouse and any member of the individual's household with whom the individual is connected by blood relationship, marriage or adoption.

Deemed medical expense

(3) For the purposes of subsection (1),

(a) any amount included in computing an individual's income for a taxation year from an office or employment in respect of a medical expense described in subsection (2) paid or provided by an employer at a particular time shall be deemed to be a medical expense paid by the individual at that time; and

(b) there shall not be included as a medical expense of an individual any expense for which the individual or his legal representative has been or is entitled to be reimbursed, except to the extent that the amount thereof is required to be included in computing the individual's income under this Part.

Deemed payment of medical expenses

(4) Where, in circumstances in which a person engaged in the business of providing transportation services is not readily available, an individual makes use of a vehicle for a purpose described in paragraph (2)(g), the individual or his legal representative shall be deemed to have paid to a person engaged in the business of providing transportation services, in respect of the operation of the vehicle, such amount as is reasonable in the circumstances.

Credit for mental or physical impairment

118.3(1) Where

(a) an individual has a severe and prolonged mental or physical impairment that has been certified as such in prescribed form by a medical doctor or, where the impairment is an impairment of sight, by a medical doctor or an optometrist,

(b) the individual has filed for a taxation year with the Minister the form prescribed for the purposes of paragraph (a), and

(c) no amount in respect of remuneration for an attendant, or care in a nursing home, by reason of the mental or physical impairment of the individual is included by the individual or any other person in calculating a deduction in respect of medical expenses under subsection 118.2(1) for the year,

for the purposes of computing the tax payable under this Part by the individual for the year, there may be deducted an amount determined by the formula

$$A \times \$3,236$$

where

A is the appropriate percentage for the year.

Dependant having impairment

(2) Where

(a) an individual has, in respect of a person who is resident in Canada at any time in a taxation year and who is entitled to deduct an amount under subsection (1) for the year, claimed for the year a deduction under subsection 118(1) by reason of

(i) paragraph 118(1)(b), or

(ii) paragraph 118(1)(d) where that person is his child or grandchild,

or could have claimed such a deduction if the individual were not married and that person were the individual's parent, grand-parent, child or grandchild and had no income for the year, and

(b) no amount in respect of remuneration for an attendant, or care in a nursing home, by reason of that person's mental or physical impairment, is included in determining an amount that may be deducted under subsection 118.2(1) or this section for the year by the individual or by any other person,

there may be deducted, for the purpose of computing the tax payable under this Part by the individual for the year, the amount, if any, by which

(c) the amount deductible under subsection (1) in computing that person's tax payable under this Part for the year

exceeds

(d) the amount that would, but for subsection (1), be that person's tax payable under this Part for the year.

Partial dependency

(3) Where more than one individual is entitled to deduct an amount under subsection (2) for a taxation year in respect of the same person, the aggregate of all amounts so deductible for the year shall not exceed the maximum amount that would be deductible under that subsection for the year by an individual in respect of that person if that individual were the only individual entitled to deduct an amount under that subsection in respect of that person, and where the individuals cannot agree as to what portion of the amount each can deduct, the Minister may fix the portions.

Nature of impairment

118.4(1) For the purposes of sections 118.2 and 118.3,

(a) a person shall be considered to have a severe and prolonged impairment only if by reason thereof he is markedly restricted in his activities of daily living and the impairment has lasted or can reasonably be expected to last for a continuous period of at least 12 months; and

(b) the Minister may obtain the advice of the Department of National Health and Welfare as to whether a person has a severe and prolonged impairment.

References to medical practitioners etc.

(2) For the purposes of sections 118.2 and 118.3, a reference to a medical doctor, medical practitioner, dentist, pharmacist, nurse or optometrist is a reference to a person authorized to practice as such

(a) where the reference is used in respect of a service rendered to a taxpayer, pursuant to the laws of the jurisdiction in which the service is rendered;

(b) where the reference is used in respect of a certificate issued by the person in respect of a taxpayer, pursuant to the laws of the jurisdiction in which the taxpayer resides or of a province; and

(c) where the reference is used in respect of a prescription issued by the person for property to be provided to or for the use of a taxpayer, pursuant to the laws of the jurisdiction in which the taxpayer resides, of a province or of the jurisdiction in which the property is provided.

Tuition credit

118.5(1) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted,

(a) where the individual was during the year a student enrolled at an educational institution in Canada that is

(i) a university, college or other educational institution providing courses at a post-secondary school level, or

(ii) certified by the Minister of Employment and Immigration to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improves a person's skills in, an occupation,

an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for his tuition paid in the year to the educational institution if the aggregate of such fees exceed $100 and, in the case of an educational institution described in subparagraph (ii), the student is enrolled therein to obtain skills for, or improve his skills in, an occupation, except to the extent that such fees

(iii) are paid on his behalf by his employer and are not included in computing his income, or

(iv) were included as part of an allowance received by his parent on his behalf from an employer and are not included in computing the income of his parent by reason of subparagraph 6(1)(b)(ix);

(b) where the individual was during the year a student in full-time attendance at a university outside Canada in a course leading to a degree, an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for his tuition paid in the year to the university, except any such fees

(i) paid in respect of a course of less than 13 consecutive weeks' duration,

(ii) paid on his behalf by his employer to the extent that the amount thereof is not included in computing his income, or

(iii) paid on his behalf by the employer of his parent, to the extent that the amount thereof is not included in computing the income of the parent by reason of subparagraph 6(1)(b)(ix); and

(c) where the individual resided throughout the year in Canada near the boundary between Canada and the United States if

(i) he was at any time in the year a student enrolled at an educational institution in the United States that is a university, college or other educational institution providing courses at a post-secondary school level, and

(ii) he commuted to that educational institution in the United States,

an amount equal to the product obtained when the appropriate percentage for the year is multiplied by the amount of any fees for his tuition paid in the year to the educational institution if such fees exceed $100, except to the extent that such fees

(iii) are paid on his behalf by his employer and are not included in computing his income, or

(iv) were included as part of an allowance received by his parent on his behalf from an employer and are not included in computing the income of the parent by reason of subparagraph 6(1)(b)(ix).

Application to deemed residents

(2) Where an individual is deemed by section 250 to be resident in Canada throughout all or part of a taxation year, in applying subsection (1) in respect of him for the period when he is so deemed to be resident in Canada, paragraph (1)(a) shall be read without reference to the words "in Canada".

Definitions

118.6(1) For the purposes of this section and section 118.9,

"designated educational institution"
«établissement d'enseignement agréé»

"designated educational institution" means

(a) an educational institution in Canada that is

(i) a university, college or other educational institution designated by the Lieutenant Governor in Council of a province as a specified educational institution under the Canada Student Loans Act or recognized by the Minister of Education of the Province of Quebec for the purposes of the Student Loans and Scholarships Act of the Province of Quebec, or

(ii) certified by the Minister of Employment and Immigration to be an educational institution providing courses, other than courses designed for university credit, that furnish a person with skills for, or improve a person's skills in, an occupation,

(b) a university outside Canada at which the individual referred to in subsection (2) was enrolled in a course, of not less than 13 consecutive weeks duration, leading to a degree, or

(c) if the individual referred to in subsection (2) resided, throughout the year referred to therein, in Canada near the boundary between Canada and the United States, an educational institution in the United States to which he commuted that is a university, college or other educational institution providing courses at a post-secondary school level;

"qualifying educational program"
«programme de formation admissible»

"qualifying educational program" means a program of not less than 3 consecutive weeks duration that provides that each student taking the program spend not less than 10 hours per week on courses or work in the program and, in respect of a program at an institution described in subparagraph (a)(i) of the definition "designated educational institution", that is a program at a post-secondary school level but, in relation to any particular student, does not include any such program

(a) if the student receives, from a person with whom he is dealing at arm's length, any allowance, benefit, grant or reimbursement for expenses in respect of the program other than

(i) an amount received by the student as or on account of a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by him, or

(ii) a benefit, if any, received by him by reason of a loan made to him in accordance with the requirements of the Canada Student Loans Act or the Student Loans and Scholarships Act of the Province of Quebec, or

(b) if the program is taken by the student

(i) during a period in respect of which he receives income from an office or employment, and

(ii) in connection with, or as part of the duties of, that office or employment.

Education credit

(2) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

A x $60 x B

where

A is the appropriate percentage for the year, and

B is the number of months in the year during which the individual is a student in full-time attendance at a designated educational institution and enrolled in a qualifying educational program at the institution,

if such enrollment is proven by filing with the Minister a certificate in prescribed form issued by the designated educational institution and containing prescribed information and, in respect of a designated educational institution described in subparagraph (a)(ii) of the definition "designated educational institution" in subsection (1), the student is enrolled in the program to obtain skills for, or improve his skills in, an occupation.

Credit for unemployment insurance premium and CPP contribution

118.7 For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted an amount determined by the formula

A x B

where

A is the appropriate percentage for the year; and

B is the total of

(a) the aggregate of all amounts each of which is an amount payable by him as an employee's premium for the year under the Unemployment Insurance Act, 1971, not exceeding the maximum amount of such premiums payable by him for the year under that Act

(b) the aggregate of all amounts each of which is an amount payable by him for the year as an employee's contribution under the Canada Pension Plan or under a provincial pension plan defined in section 3 of the Canada Pension Plan, not exceeding the maximum amount of such contributions payable by him for the year under the plan, and

(c) the aggregate of all amounts each of which is an amount payable by him in respect of self-employed earnings for the year as a contribution under the Canada Pension Plan or under a provincial pension plan as defined in section 3 of the Canada Pension Plan, not exceeding the maximum amount of such contributions payable by him for the year under the plan.

Transfer of unused credits to spouse

118.8 For the purpose of computing the tax payable under this Part for a taxation year by an individual who, at any time in the year, is a married person (other than an individual who, by reason of a breakdown of their marriage, is living separate and apart from the individual's spouse at the end of the year and for a period of 90 days commencing in the year), there may be deducted an amount determined by the formula

$$A\ [(\frac{B}{A} - \frac{C}{A}) + (\frac{D}{A} - \frac{E}{A})]$$

where

A is the appropriate percentage for the year;

B is the lesser of $600 and the aggregate of all amounts each of which is an amount that the individual's spouse may deduct for the year under section 118.5 or 118.6;

C is the aggregate of all amounts each of which is an amount deducted by the individual's spouse for the year under section 118.5 or 118.6;

D is the aggregate of all amounts each of which is an amount that the individual's spouse may deduct for the year under subsection 118(2) or (3) or 118.3(1); and

E is the aggregate of all amounts each of which is an amount deducted by the individual's spouse for the year under subsection 118(2) or (3) or 118.3(1).

Transfers to supporting person

118.9(1) In computing the tax payable under this Part for a taxation year by a parent or grand-parent of an individual who

(a) is in full-time attendance at any time in the year at a designated educational institution and enrolled in a qualifying educational program at that institution, and

(b) is not an individual in respect of whom the individual's spouse deducts an amount under section 118 or 118.8 for the year,

there may be deducted an amount determined by the formula

$$A\ (\frac{B}{A} - \frac{C}{A})$$

where

A is the appropriate percentage for this year,

B is the lesser of $600 and the aggregate of all amounts each of which is an amount the individual may deduct for the year under section 118.5 or 118.6, and

C is the aggregate of all amounts each of which is an amount deducted by the individual for the year under section 118.5 or 118.6,

if such enrollment is proven by filing with the Minister a certificate in prescribed form issued by the designated educational institution and containing prescribed information and, in respect of a designated educational institution described in subparagraph (a)(ii) of the definition "designated educational institution" in subsection 118.6(1), the individual is enrolled in the program to obtain skills for, or improve his skills in, an occupation.

Only one claim per student

(2) Where in computing his income for a taxation year a parent or grandparent of an individual has deducted an amount under section 118 in respect of the individual, that parent or grandparent, as the case may be, is the only person entitled to deduct an amount for the year under subsection (1) in respect of the individual and in any other case only such one of the parents and grandparents of the individual as is designated for the year in writing by the individual is entitled to make such a deduction for the year.

Individual resident in Canada for part of the year

118.10 Notwithstanding sections 118 to 118.9, where an individual is resident in Canada during part of a taxation year and during some other part of the year is not resident in Canada, is not employed in Canada and is not carrying on business in Canada, for the purpose of computing his tax payable under this Part for the year, no amounts may be deducted under those sections for the year except the aggregate of

(a) the deductions permitted under any sections 118.1, 118.2, 118.5, 118.6 and 118.7 to taxpayers resident in Canada throughout the year for the purpose of computing tax payable under this Part for the year that may reasonably be considered wholly applicable to the individual for the period or periods in the year throughout which he is resident in Canada, employed in Canada or carrying on business in Canada; and

(b) such part of the deductions permitted under sections 118, 118.3, 118.8 and 118.9 to taxpayers resident in Canada throughout the year for the purpose of computing tax payable under this Part for the year as may reasonably be considered applicable to the individual for such period or periods.

Ordering of credits

118.11 In computing the tax payable under this Part by an individual the following provisions shall be applied in the following order: subsections 118(1) and (2), section 118.7, subsection 118(3) and sections 118.3, 118.5, 118.6, 118.9, 118.8, 118.2, 118.1 and 121.

Credits in separate returns

118.12 Where a separate return of income with respect to a taxpayer is filed under subsection 70(2), 104(23) or 150(4) for a particular period and another return of income under this Part with respect to the taxpayer is filed for a period ending in the calendar year in which the particular period ends, for the purpose of computing the tax payable under this Part by the taxpayer in such returns, the aggregate of all deductions claimed in all such returns under any of subsection 118(3) and sections 118.1 to 118.7 and 118.9 shall not exceed the aggregate that could be deducted thereunder for the year with respect to the taxpayer if no separate returns were filed under subsections 70(2), 104(23) and 150(4).

Computing tax payable by a non-resident individual

118.13 Sections 118 and 118.2, subsections 118.3(2) and (3) and sections 118.5 to 118.9 do not apply for the purpose of computing the tax payable under this Part for a taxation year by an individual who at no time in the year is resident in Canada, except that, where all or substantially all of the individual's income for the year is included in computing his taxable income earned in

Canada for the year, for the purpose of computing his tax payable under this Part for the year there may be deducted the amounts that would have been deductible under those provisions for the purpose of computing his tax payable under this Part for the year had he been resident in Canada throughout the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years, except that,

(a) for the purposes of applying sections 118.5, 118.8 and 118.9 of the said Act, as enacted by subsection (1),

(i) any part of an amount paid in 1987 that relates to a course taken by an individual in 1988 shall, if the individual so elects, be deemed to have been paid in 1988 and not to have been paid in 1987, and

(ii) any part of an amount paid by an individual in 1988 shall not be deductible in computing the individual's tax payable under Part I of the said Act for that year to the extent that it was deducted in computing his income for the 1987 taxation year; and

(b) for the purpose of applying section 118.1 of the said Act, as enacted by subsection (1), gifts made before 1984 shall not be included in an individual's "total charitable gifts", "total Crown gifts", or "total cultural gifts" where the individual deducted an amount for the 1983 taxation year under paragraph 110(1)(d) of the said Act as it read for the 1983 taxation year.

77.(1) Paragraph 119(1)(h) of the said Act is repealed and the following substituted therefor:

"(h) deduct from the amount resulting from the application of paragraph (f) or (g), as the case may be, the aggregate of the taxes payable under this Part for the preceding years computed without reference to section 120.2;"

(2) Subsection 119(4) of the said Act is repealed and the following substituted therefor:

Election

"(4) An election under subsection (1) is a nullity unless the earliest of the "preceding years" ended before 1988 and is one of the 6 years immediately preceding the year of averaging."

(3) Subsection (1) is applicable to the 1987 and subsequent taxation years.

(4) Subsection (2) is applicable to the 1988 and subsequent taxation years.

78.(1) Subsections 120.1(1) to (3) of the said Act are repealed and the following substituted therefor:

Forward averaging credit

"120.1(1) There may be deducted from the amount that would, but for this section, be the tax otherwise payable under this Part (other than the tax payable with respect to a return of income referred to in subsection 110.4(5)) by an individual for a taxation year an amount equal to the product obtained when

(a) the amount specified in his election for the year under subsection 110.4(2) and, where his legal representative has filed on his behalf an election under subsection (2) for the year, his accumulated averaging amount at the end of the year

is multiplied by

(b) the percentage referred to in paragraph 117(2)(c).

Year of death

(2) Where an individual dies in a taxation year before 1998 (and is resident in Canada at the time of his death) and his legal representative files with the individual's return of income (other than a return of income referred to in subsection 110.4(5)) for the year an election in prescribed form on or before the day on or before which the return is required to be filed, there shall be added to the amount that would, but for this section, be his tax payable for the year under this Part with respect to the return of income an amount equal to the amount, if any, by which

(a) the aggregate of the taxes that would have been payable by him under this Part for the three immediately preceding taxation years if his taxable income otherwise determined for each of those years were increased by 1/3 of his accumulated averaging amount at the end of the year in which he died and if this Part were read without reference to sections 119 to 127.3

exceeds

(b) the aggregate of the taxes that would have been payable by him under this Part for the three immediately preceding taxation years if this Part were read without reference to sections 119 to 127.3.

Deduction and additions

(3) Each amount deducted or added under subsection (1) or (2) in computing the tax payable under this Part by an individual for a taxation year shall, notwithstanding those subsections, be equal to the aggregate of

(a) the amount that would, but for this subsection, be determined for the year under subsection (1) or (2), as the case may be, and

(b) an amount equal to that proportion of 47% of the amount referred to in paragraph (a) that

(i) the individual's income for the year, other than his income earned in the year in a province,

is of

(ii) his income for the year."

(2) Subsection (1) is applicable with respect to elections filed for the 1988 and subsequent taxation years.

79.(1) Subsection 120.2(2) of the said Act is repealed.

(2) All that portion of subsection 120.2(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Additional tax determined

"(3) For the purposes of subsection (1), additional tax of an individual for a taxation year is the amount, if any, by which"

(3) All that portion of subsection 120.2(4) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Application

"(4) Subsection (1) does not apply in respect of"

(4) Subsections (1) to (3) apply to the 1987 and subsequent taxation years.

80.(1) Subsection 122(1) of the said Act is repealed and the following substituted therefor:

Tax payable by inter vivos trust

"122.(1) Notwithstanding section 117, the tax payable under this Part by an inter vivos trust upon its amount taxable for a taxation year shall be 29% of its amount taxable for the year.

Deductions not permitted

(1.1) No deduction may be made under section 118 in computing the tax payable by a trust for a taxation year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

81.(1) Paragraph 122.2(1)(a) of the said Act is repealed and the following substituted therefor:

"(a) the product obtained when $559 is multiplied by the number of children each of whom was an eligible child of the individual for the year"

(2) Paragraph 122.2(2)(a) of the said Act is repealed and the following substituted therefor:

"eligible child"

"(a) "eligible child" of an individual for a taxation year means a child in respect of whom the individual is entitled

(i) in January of the following taxation year, or

(ii) where the child died or attained the age of 18 during any month in the year, in that month,

to receive a family allowance under the Family Allowances Act, 1973;"

(3) Subparagraph 122.2(2)(b)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) any taxpayer who deducted an amount under section 118 for the year in respect of an eligible child of the individual."

(4) Subsections (1) to (3) are is applicable to the 1988 and subsequent taxation years.

82.(1) Subparagraph 122.3(1)(e)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) the aggregate of all amounts each of which is an amount deducted by the individual under section 110.6 or paragraph 111(1)(b) or deductible by him under paragraph 110(1)(d.2), (d.3), (f) or (j) for the year or in respect of the period or periods referred to in subparagraph (ii), as the case may be."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

83.(1) Paragraph (c) of the definition "eligible individual" in subsection 122.4(1) of the said Act is repealed and the following substituted therefor:

> "(c) 19 years of age or over;"

(2) Subparagraph (b)(i) of the definition "qualified relation" in subsection 122.4(1) of the said Act is repealed and the following substituted therefor:

> "(i) a person in respect of whom the individual, or the spouse referred to in paragraph (a), was the only person who deducted an amount under section 118 for the year, or"

(3) Paragraph 122.4(2)(c) of the said Act is repealed and the following substituted therefor:

> "(c) who at no time in the year was resident in Canada."

(4) Subsection 122.4(3) of the said Act is repealed and the following substituted therefor:

Amount deemed paid on account of tax

"(3) Where an eligible individual for a taxation year files with his return of income (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)) under this Part for the year a prescribed form, containing prescribed information, completed by the individual or, where the individual was married and was living with his spouse at the end of the year, jointly by the individual and his spouse, the amount, if any, by which the aggregate of

(a) $70 for the eligible individual himself,

(b) $70 for a qualified relation of the individual for the year who was the individual's spouse, and

(c) the product obtained when $35 is multiplied by the number of other qualified relations of the individual for the year

exceeds 5% of the amount, if any, by which

(d) the aggregate of all amounts each of which is the income for the year of

(i) the individual,

(ii) the individual's spouse, where the spouse is a qualified relation of the individual for the year,

(iii) a parent (other than a person referred to in subparagraph (i) and (ii)) of a child where the child is a qualified relation of the individual for the year and the parent and the individual were living together at the end of the year, or

(iv) a person (other than a person referred to in any of subparagraphs (i) to (iii)) who deducted an amount under section 118 for the year in respect of a qualified relation of the individual, other than in respect of the individual's spouse,

exceeds

(e) $16,000

shall be deemed to be an amount paid by him at the end of the year on account of his tax under this Part for the year."

(5) Subsections (1) to (4) are applicable to the 1988 and subsequent taxation years.

84.(1) Paragraph 123(1)(a) of the said Act is repealed and the following substituted therefor:

Rate for corporations

"(a) 38% of its amount taxable for the year, and"

(2) Paragraphs 123(1)(c) and (d) of the said Act are repealed.

(3) Subsections (1) and (2) are applicable to taxation years ending after June, 1987, except that in its application to taxation years ending after June, 1987 and commencing before July, 1988, paragraph 123(1)(a) of the said Act, as enacted by subsection (1), shall be read as follows:

(a) the amount, if any, by which the aggregate of

(i) that proportion of 46% of its amount taxable for the year that the number of days in the year that are before July, 1987 is of the number of days in the year,

(ii) that proportion of 45% of its amount taxable for the year that the number of days in the year that are after June, 1987 and before July, 1988 is of the number of days in the year,

(iii) that proportion of 38% of its amount taxable for the year that the number of days in the year that are after June, 1988 is of the number of days in the year,

(iv) in the case of a corporation that was throughout the year a Canadian-controlled private corporation, that proportion of 1% of the lesser of

(A) the amount, if any, by which

(I) its amount taxable for the year

exceeds the aggregate of

(II) the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year, and

(III) 2 times the aggregate of amounts deducted under subsection 126(2) by the corporation from its tax for the year otherwise payable under this Part, and

(B) the amount determined under clause 129(3)(a)(i)(B) in respect of the corporation for the year, .

that the number of days in the year that are after June, 1987 and before 1988 is of the number of days in the year, and

(v) in the case of a corporation that was throughout the year an investment corporation or a mutual fund corporation, that proportion of 1% of the lesser of

(A) its amount taxable for the year, and

(B) its taxed capital gains for the year (within the meaning assigned by subsection 130(3)) for the year

that the number of days in the year that are after June, 1987 and before July 1988 is of the number of days in the year

exceeds

(vi) in the case of a corporation that was throughout the year a Canadian-controlled private corporation, that proportion of 7% of the lesser of the amounts determined under clauses (iv) (A) and (B) in respect of the corporation for the year that the number of days in the year that are after 1987 and before July, 1988 is of the number of days in the year, and"

85.(1) Paragraphs 123.2(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) the tax payable under this Part by the corporation for the year determined without reference to paragraph 123(1)(b), section 123.1, this section, section 125.2, section 126 (except for the purposes of subsection 125(1) and sections 125.1 and 129) and subsections 127(3), (5) and (13), 127.2(1) and 127.3(1) and as if subsection 124(1) were read without reference to the words "in a province" therein

exceeds

> (b) in the case of a corporation that was throughout the year a Canadian-controlled private corporation, 4/5 of the least of the amounts determined under subparagraphs 129(3)(a)(i) to (iii) in respect of the corporation for the year,"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years, except that in its application to a taxation year of a corporation commencing before 1988 and ending after 1987, there shall be added to the amount determined under paragraph 123.2(b) of the said Act, as enacted by subsection (1), in respect of the corporation for the year an amount equal to that proportion of 1/5 of the least of the amounts determined under subparagraphs 129(3)(a)(i) to (iii) of the said Act in respect of the corporation for the year that the number of days in the year that are before 1988 is of the number of days in the year.

86.(1) All that portion of subsection 125(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Small business deduction

> "125.(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was, throughout a taxation year, a Canadian-controlled private corporation, an amount equal to 16% of the least of"

(2) Subparagraphs 125(1)(b)(i) and (ii) of the said Act are repealed and the following substituted therefor:

> "(i) 10/3 of the aggregate of amounts deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part, and
>
> (ii) 10/4 of the aggregate of amounts deducted under subsection 126(2) from the tax for the year otherwise payable by it under this Part, and"

(3) Subparagraph 125(7)(d)(i) of the said Act is repealed and the following substituted therefor:

> "(i) an individual who performs services on behalf of the corporation (in this paragraph and paragraph 18(1)(p) referred to as an "incorporated employee"), or"

(4) Subsection (1) is applicable to taxation years ending after June, 1988, except that there shall be added to the amount otherwise determined under subsection 125(1) of the said Act, as enacted by subsection (1), in respect of a taxation year of a corporation commencing before July, 1988 and ending after June, 1988, that proportion of 5% of the least of the amounts determined under paragraphs 125(1)(a) to (c) of the said Act in respect of the corporation for the year that the number of days in the year that are before July, 1988 is of the number of days in the year.

(5) Subsection (2) is applicable to taxation years commencing after June, 1988.

(6) Subsection (3) is applicable to the 1988 and subsequent taxation years.

87.(1) Subsection 125.1(1) of the said Act is repealed and the following substituted therefor:

Deduction re manufacturing and processing profits

"125.1(1) There may be deducted from the tax otherwise payable under this Part by a corporation for a taxation year an amount equal to 5% of the lesser of

(a) the amount, if any, by which the corporation's Canadian manufacturing and processing profits for the year exceed, where the corporation was a Canadian-controlled private corporation throughout the year, the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year, and

(b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of

(i) where the corporation was a Canadian-controlled private corporation throughout the year, the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year,

(ii) 10/4 of the aggregate of amounts deducted under subsection 126(2) from the tax for the year otherwise payable under this Part by the corporation, and

(iii) where the corporation was a Canadian-controlled private corporation throughout the year, the amount determined under clause 129(3)(a)(i)(B) in respect of the corporation for the year."

(2) Subsection 125.1(2) of the said Act is repealed.

(3) Subsection (1) is applicable to taxation years ending after June, 1988, except that in its application to taxation years ending after June 1988 and commencing before July, 1991, subsection 125.1(1) of the said Act, as enacted subsection (1), shall be read as follows:

"125.1(1) There may be deducted from the tax otherwise payable under this Part by a corporation for a taxation year an amount equal to the aggregate of

(a) that proportion of 7% of the lesser of

(i) the amount, if any, by which the corporation's Canadian manufacturing and processing profits for the year exceed, where the corporation was a Canadian-controlled private corporation throughout the year, the least of the amounts determined under paragraph 125(1)(a) to (c) in respect of the corporation for the year, and

(ii) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of

(A) where the corporation was a Canadian-controlled private corporation throughout the year, the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year,

(B) where the year commenced before July, 1988, 2 times the aggregate of amounts deducted under subsection 126(2) from the tax for the year otherwise payable under this Part by the corporation,

(C) where the year commenced after June, 1988, 10/4 of the aggregate of amounts deducted under subsection 126(2) from the tax for the year otherwise payable under this part by the corporation, and

(D) where the corporation was a Canadian-controlled private corporation throughout the year, the amount determined under clause 129(3)(a)(i)(B) in respect of the corporation for the year that the number of days in the year that are before July, 1988 is of the number of days in the year;

(b) that proportion of 2% of the lesser of the amounts determined under subparagraphs (a)(i) and (ii) in respect of the corporation for the year that the number of days in the year that are after June, 1988 and before July, 1989 is of the number of days in the year;

(c) that proportion of 3% of the lesser of the amounts determined under subparagraphs (a)(i) and (ii) in respect of the corporation for the year that the number of days in the year that are after June, 1989 and before July, 1990 is of the number of days in the year;

(d) that proportion of 4% of the lesser of the amounts determined under subparagraphs (a)(i) and (ii) in respect of the corporation for the year that the number of days in the year that are after June, 1990 and before July, 1991 is of the number of days in the year;

(e) that proportion of 5% of the lesser of the amounts determined under subparagraphs (a)(i) and (ii) in respect of the corporation for the year the number of days in the year that are after June, 1991 is of the number of days in the year; and

(f) where the corporation was a Canadian-controlled private corporation throughout the year, that proportion of 5% of the lesser of

(i) the corporation's Canadian manufacturing and processing profits for the year, and

(ii) the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year

that the number of days in the year that are before July, 1988 is of the number of days in the year."

(4) Subsection (2) is applicable to the 1987 and subsequent taxation years.

88.(1) The said Act is further amended by adding thereto, immediately after section 125.1 thereof, the following section:

Deduction of Part VI tax

"125.2(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was throughout the year a financial institution (within the meaning assigned by section 190) an amount equal to the aggregate of

(a) its tax payable under Part VI for the year; and

(b) such part of its unused Part VI tax credits for the seven taxation years immediately preceding and the three taxation years immediately following the year as the corporation may claim.

Idem

(2) For the purposes of this section,

(a) an amount may not be claimed under subsection (1) in computing a corporation's tax payable under this Part for a particular taxation year in respect of its unused Part VI tax credit for another taxation year until its unused Part VI tax credits for taxation years preceding the other year that may be claimed for the particular year have been claimed; and

(b) an amount in respect of a corporation's unused Part VI tax credit for a taxation year may be claimed under subsection (1) in computing its tax payable under this Part for another taxation year only to the extent that it exceeds the aggregate of all amounts each of which is the amount claimed in respect of that unused Part VI tax credit in computing its tax payable under this Part for a taxation year preceding that other year.

"Unused Part VI tax credit" defined

(3) For the purposes of this section "unused Part VI tax credit" of a corporation for a taxation year means the amount, if any, by which the corporation's tax payable under Part VI for the year exceeds the amount that would, but for this section, be its tax payable under this Part for the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years except that for the purposes of section 125.2 of the said Act, as enacted by subsection (1), the unused Part VI tax credit of corporation for each taxation year ending before 1988 shall be deemed to be nil.

89.(1) Subclause 126(1)(b)(ii)(A)(III) of the said Act is repealed and the following substituted therefor:

> "(III) the aggregate of all amounts each of which is an amount deducted by the taxpayer under section 110.6 or paragraph 111(1)(b), or deductible by the taxpayer under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) or section 112 or 113, for the year or in respect of the period or periods referred to in subclause (II), as the case may be, and"

(2) Subclause 126(2.1)(a)(ii)(A)(III) of the said Act is repealed and the following substituted therefor:

> "(III) the aggregate of all amounts each of which is an amount deducted by the taxpayer under section 110.6 or paragraph 111(1)(b), or deductible by the taxpayer under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) or section 112 or 113, for the year or in respect of the period or periods referred to in subclause (II), as the case may be, and"

(3) Subparagraph 126(3)(b)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) the aggregate of all amounts each of which is an amount deducted by the individual under section 110.6 or paragraph 111(1)(b), or deductible by the individual under paragraph 110(1)(d) or (f), for the year or in respect of the period or periods referred to in subparagraph (ii), as the case may be,"

(4) Subparagraphs 126(7)(d)(i) to (iii) of the said Act are repealed and the following substituted therefor:

> "(i) in paragraph (1)(b) and subsection (3), the amount, if any, by which
>
> > (A) the amount that would be the tax payable under this Part for the year if that tax were determined without reference to section 120.1 and paragraph 123(1)(b) and before making any deduction under any of sections 121, 122.3, 125 to 127 and 127.2 to 127.4

exceeds

(B) the amount, if any, deemed by subsection 120(2) to have been paid on account of tax payable under this Part for the year,

(ii) in subparagraph (2)(c)(i) and paragraph (2.2)(b), the tax for the year payable under this Part (determined without reference to section 120.1 and paragraph 123(1)(b) and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.4), and

(iii) in subsection (2.1), the tax for the year payable under this Part (determined without reference to subsection 120(1), section 120.1 and paragraph 123(1)(b) and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.4); and"

(5) Subsections (1) to (3) are applicable to the 1988 and subsequent taxation years.

(6) Subsection (4) is applicable to the 1987 and subsequent taxation years, except that in their application to taxation years ending after 1986 and commencing before July, 1988 subparagraphs 126(7)(d)(i) to (iii) of the said Act, as enacted by subsection (4), shall be read as follows:

"(i) in paragraph (1)(b) and subsection (3), the amount, if any, by which

(A) the amount that would be that tax payable under this Part for the year if that tax were determined without reference to section 120.1 and paragraph 123(1)(b), before making any deduction under any of sections 121, 122.3, 125 to 127 and 127.2 to 127.4 and as if the lesser of the amounts determined under clauses 123(1)(a)(iv)(A) and (B) were the amount taxable (within the meaning assigned by subsection 123(1)) for the year

exceeds

(B) the amount, if any, deemed by subsection 120(2) to have been paid on account of tax payable under this Part for the year,

(ii) in subparagraph (2)(c)(i) and paragraph (2.2)(b), the tax for the year payable under this Part (determined without reference to section 120.1, subparagraphs 123(1)(a)(iv), (v) and (vi) and paragraph 123(1)(b) and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.4), and

(iii) in subsection (2.1) the tax for the year payable under this Part (determined without reference to subsection 120(1), section 120.1, subparagraphs 123(1)(a)(iv), (v) and (vi) and paragraph 123(1)(b) and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.4); and"

90.(1) Subsection 127(5) of the said Act is repealed and the following substituted therefor:

Investment tax credit

"(5) There may be deducted from the tax otherwise payable by a taxpayer under this Part for a taxation year an amount not exceeding the lesser of

(a) his annual investment tax credit limit for the year; and

(b) the aggregate of

"(i) his investment tax credit at the end of the year in respect of property acquired, or an expenditure made, before the end of the year, and

(ii) the lesser of

(A) his investment tax credit at the end of the year in respect of property acquired, or an expenditure made, in a subsequent taxation year, to the extent that the investment tax credit was not deductible under this subsection for the taxation year in which the property was acquired, or the expenditure was made, as the case may be, and

(B) the amount, if any, by which

(I) the tax otherwise payable by him under this Part or, where Division E.1 is applicable to the taxpayer for the year, the amount, if any, by which his tax otherwise payable under this Part for the year exceeds his minimum amount for the year determined under section 127.51,

exceeds

(II) the amount, if any, determined under subparagraph (i)."

(2) Subsection 127(8) of the said Act is repealed and the following substituted therefor:

Investment tax credit of partnership

"(8) Where, in a particular taxation year of a taxpayer who is a member of a partnership, an amount would, if the partnership were a person and its fiscal period were its taxation year, be determined in respect of the partnership, for its taxation year ending in that particular taxation year, under paragraph (a), (b) or (e.1) of the definition "investment tax credit" in subsection (9), if

(a) paragraph (a) of that definition were read without reference to subparagraph (iii) thereof, and

(b) in the case of a taxpayer who is a specified member of the partnership in the taxation year of the partnership,

(i) paragraph (a) of that definition were read without reference to subparagraph (ii) thereof, and

(ii) paragraph (e.1) of that definition were read without reference to the words "or that reduced the amount of an expenditure made by the taxpayer under paragraph (11.1)(c)",

the portion of that amount that may reasonably be considered to be the taxpayer's share thereof shall be added in computing the investment tax credit of the taxpayer at the end of that particular taxation year."

(3) Subsection 127(9) of the said Act is amended by adding thereto, in alphabetical order within the subsection, the following definition:

"annual investment tax credit limit"

«crédit annuel maximal d'impôt à l'investissement»

""annual investment tax credit limit" of a taxpayer for a taxation year means

(a) in the case of a corporation, the aggregate of

(i) 3/4 of the corporation's tax otherwise payable under this Part for the year, and

(ii) where the corporation is a Canadian-controlled private corporation throughout the year, 3% of the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year, and

(b) in any other case, the aggregate of

(i) $24,000, and

(ii) 3/4 of the amount, if any, by which the taxpayer's tax otherwise payable under this Part for the year exceeds $24,000;"

(4) The definition "certified property" in subsection 127(9) of the said Act is amended by striking out the word "or" at the end of subparagraph (a)(i) thereof, and by repealing subparagraph (a)(ii) thereof and substituting the following therefor:

"(ii) after 1986 and before 1989, other than a property included in subparagraph (i), or

(iii) after 1988,"

(5) Subparagraph (c)(ii) of the definition "investment tax credit" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(ii) an amount determined under paragraph (a) or (b) in respect of the taxpayer for any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year, where the property was acquired, or the qualified expenditure was made, after April 19, 1983 or the qualified Canadian exploration expenditure was for a taxation year ending after November 30, 1985,"

(6) Paragraphs (d), (e) and (e.1) of the definition "investment tax credit" in subsection 127(9) of the said Act are repealed and the following substituted therefor:

"(d) the aggregate of all amounts each of which is an amount required by subsection 119(9) to be added in computing his investment tax credit at the end of the year or at the end of any of the 10 taxation years immediately preceding the year,

(e) the aggregate of all amounts each of which is an amount required by subsection (10.1) to be added in computing his investment tax credit at the end of the year or at the end of any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year, and

(e.1) the aggregate of all amounts each of which is the specified percentage of that part of a repayment made by the taxpayer in the year or in any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year that may reasonably be considered to be a repayment of government assistance, non-government assistance or a contract payment that reduced the capital cost to the taxpayer of a property under paragraph (11.1)(b) or that reduced the amount of an expenditure made by the taxpayer under paragraph (11.1)(c)"

(7) Subparagraph (f)(ii) of the definition "investment tax credit" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(ii) property acquired, or an expenditure made, in the year or in any of the 10 taxation years immediately preceding or the 2 taxation years immediately following the year, where the property was acquired, or the expenditure was made, after April 19, 1983,"

(8) Subparagraph (g)(iii) of the definition "investment tax credit" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(iii) in respect of property acquired, or an expenditure made, after April 19, 1983, at the end of any of the 9 taxation years immediately preceding or the 3 taxation years immediately following the year,"

(9) Subparagraph (h)(iii) of the definition "investment tax credit" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(iii) in respect of property acquired, or an expenditure made, after April 19, 1983, at the end of any of the 10 taxation years immediately preceding or the 3 taxation years immediately following the year,"

(10) Paragraph (i) of the definition "investment tax credit" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(i) the aggregate of all amounts each of which is an amount claimed under subparagraph 192(2)(a)(ii) by the taxpayer for the year or a preceding taxation year in respect of property acquired, or an expenditure made, in the year or the 10 taxation years immediately preceding the year,"

(11) Subparagraph (a)(iii) of the definition "specified percentage" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(iii) acquired primarily for use in the Province of Newfoundland, Prince Edward Island, Nova Scotia or New Brunswick or the Gaspé Peninsula, and

(A) after November 16, 1978 and before 1989, 20%, and

(B) after 1988, 15%,"

(12) Subparagraph (a)(v) of the definition "specified percentage" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(v) acquired primarily for use in a prescribed offshore region and

(A) after February 25, 1986 and before 1989, 20%, and

(B) after 1988, 15%, "

(13) The definition "specified percentage" in subsection 127(9) of the said Act is further amended by striking out the word "and" at the end of subparagraph (d)(i) thereof and by repealing subparagraph (d)(ii) thereof and substituting the following therefor:

"(ii) included in paragraph (a)(ii) of the definition "certified property", 40%, and

(iii) in any other case, 30%,"

(14) Paragraph (g) of the definition "specified percentage" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(g) in respect of an approved project property acquired

(i) before 1989, 60%, and

(ii) after 1988, 45%, and"

(15) Subsection 127(11.2) of the said Act is repealed.

(16) Subsections 127(13) to (16) of the said Act are repealed.

(17) Subsection 127(17) of the said Act is repealed and the following substituted therefor:

"(17) In this section "tax otherwise payable" by a taxpayer under this Part for a taxation year means the amount that would, but for subsection (5) and sections 120.1 and 120.2, be the tax payable by the taxpayer under this Part for the year."

(18) Subsections (1) and (4) to (17) are applicable to the 1988 and subsequent taxation years, and in applying subsection 127(5) of the said Act to the 1986 and 1987 taxation years the references in clause 127(5)(a)(ii)(B) and subparagraphs 127(5)(b)(ii) and (c)(ii) of the said Act to "the tax otherwise payable by him under this Part for the year" shall be read as "the tax otherwise payable by him under this Part for the year or, where Division E.1 is applicable to the taxpayer for the year, the amount, if any, by which his tax otherwise payable under this Part for the year exceeds his minimum amount for the year determined under section 127.51".

(19) Subsection (2) is applicable in respect of expenditures made after December 15, 1987 except that, where a taxpayer acquired a partnership interest before December 16, 1987, or after December 15, 1987

(a) pursuant to an obligation in writing entered into before December 16, 1987,

(b) and before June, 1988 pursuant to the terms of a prospectus, preliminary prospectus, registration statement or offering memorandum filed before December 16, 1987 with a public authority in Canada pursuant to and in accordance with the securities legislation of any province, or

(c) and before June, 1988 as part of an offering of securities where

(i) the offering was made pursuant to the terms of an offering memorandum which contained a complete or substantially complete description of the securities contemplated in the offering as well as the terms and conditions of the offering of the securities,

(ii) the offering memorandum was distributed before December 16, 1987,

(iii) solicitations in respect of the sale of the securities contemplated by the offering memorandum were made before December 16, 1987, and

(iv) the sale of the securities was substantially in accordance with the offering memorandum,

subsection (2) shall not apply in respect of the taxpayer to expenditures made by the partnership after December 15, 1987 and before 1989 pursuant to

(d) an obligation in writing entered into by the partnership before December 16, 1987;

(e) the terms of a prospectus, preliminary prospectus, registration statement or offering memorandum filed before December 16, 1987 with a public authority in Canada pursuant to and in accordance with the securities legislation of any province; or

(f) the terms of an offering memorandum described in paragraph (c) and pursuant to which securities were distributed.

(20) Subsection (3) is applicable to the 1988 and subsequent taxation years, except that

(a) in the case of any such taxation year commencing before 1988, the annual investment tax credit limit of a taxpayer shall be the aggregate of

(i) that proportion of the amount of the taxpayer's tax otherwise payable, as defined in subsection 127(17) of the said Act as enacted by subsection (16), for the year that the number of days in the year that are before 1988 is of the number of days in the year, and

(ii) that proportion of the amount that would be the taxpayer's annual investment tax credit limit for the year pursuant to the definition "annual investment tax credit limit" in subsection 127(9) of the said Act, as enacted by subsection (2), if that subsection were applicable for the year, that the number of days in the year that are after 1987 is of the number of days in the year; and

(h) in the case of any such taxation year commencing before July 1988, subparagraph (a)(ii) of the definition "annual investment tax credit limit" in subsection 127(9) of the said Act, as enacted by subsection (3), shall be read as follows:

> "(ii) where the corporation is a Canadian-controlled private corporation throughout the year, 1/4 of the amount, if any, by which
>
> (A) the aggregate of
>
> (I) that proportion of 15% of the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year that the number of days in the year that are before July, 1987 is of the number of days in the year,
>
> (II) that proportion of 14% of the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year that the number of days in the year that are after June, 1987 and before July, 1988 is of the number of days in the year, and
>
> (III) that proportion of 12% of the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year that the number of days in the year that are after June, 1988 is of the number of days in the year
>
> exceeds
>
> (B) the amount, if any, determined under paragraph 125.1(1)(b) in respect of the corporation for the year."

91.(1) All that portion of subsection 127.1(1) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

> "a prescribed form containing prescribed information, he shall be deemed to have paid, on the day on which the return referred to in paragraph (a) or the form referred to in paragraph (b), as the case may be, is filed, an amount, on account of his tax under this Part for the year, equal to the lesser of

(c) his refundable investment tax credit for the year; and

(d) the amount designated by the taxpayer in the prescribed form."

(2) Clauses (a)(iv)(A), (B) and (C) of the definition "refundable investment tax credit" in subsection 127.1(2) of the said Act are repealed and the following substituted therefor:

"(A) in respect of property acquired, or an expenditure made (other than a qualified Canadian exploration expenditure or an expenditure in respect of which an amount is included under subparagraph (vi) or (b)(ii) in computing his refundable investment tax credit for the year), by him in the year and after April 19, 1983,

(B) pursuant to paragraph (b) of the definition "investment tax credit" in subsection 127(9) in respect of a property acquired, or an expenditure made (other than a qualified Canadian exploration expenditure or an expenditure in respect of which an amount is included under subparagraph (vi) or (b)(ii) in computing his refundable investment tax credit for the year), after April 19, 1983, or

(C) in respect of his qualified Canadian exploration expenditure for the year, or pursuant to paragraph (b) of the definition "investment tax credit" in subsection 127(9) in respect of a qualified Canadian exploration expenditure for the year, other than an amount included under subparagraph (b)(iii)"

(3) Subparagraph (b)(i) of the definition "refundable investment tax credit" in subsection 127.1(2) of the said Act is repealed and the following substituted therefor:

"(i) 20% of the amount, if any, calculated for the year in respect of that other taxpayer, by which the aggregate determined under subparagraph (a)(iv) in respect of property acquired or an expenditure made before 1988, exceeds the aggregate determined under subparagraph (a)(v) in respect of property acquired or an expenditure made before 1988,

(4) Subclauses (b)(ii)(A)(I) and (II) of the definition "refundable investment tax credit" in subsection 127.1(2) of the said Act are repealed and the following substituted therefor:

> "(I) in respect of an approved project property acquired by him in the year and before 1988, or
>
> (II) pursuant to paragraph (b) of the definition "investment tax credit" in subsection 127(9) in respect of an approved project property acquired before 1988"

(5) All that portion of subparagraph (b)(iii) of the definition "refundable investment tax credit" in subsection 127.1(2) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

> "(iii) where the taxation year commences before 1988, 40% of the amount, if any, by which"

(6) Subsection (1) is applicable to the 1983 and subsequent taxation years.

(7) Subsection (2) is applicable after May 23, 1985 except that, in its application before December 1985, subparagraph (a)(iv) of the definition "refundable investment tax credit" in subsection 127.1(2) of the said Act, as amended by subsection (2), shall be read without reference to the words "a qualified Canadian exploration expenditure or" in clauses (A) and (B) thereof and without reference to clause (C) thereof.

(8) Subsections (3) to (5) are applicable after June 17, 1987.

92.(1) Subparagraph 127.2(6)(b)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) his tax otherwise payable under this Part for the year, the amount deemed by subsection (2) to have been paid on account of his tax payable under this Part for the year or, where Division E.1 is applicable to the taxpayer for the year, the amount, if any, by which his tax otherwise payable under this Part for the year exceeds his minimum amount for the year determined under section 127.51, as the case may be, and"

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

93.(1) Subparagraphs 127.3(2)(b)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) his tax otherwise payable under this Part for the year or, where Division E.1 is applicable to the taxpayer for the year, the amount, if any, by which his tax otherwise payable under the Part for the year exceeds his minimum amount for the year determined under section 127.51, as the case may be, and"

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

94.(1) Section 127.51 of the said Act is repealed and the following substituted therefor:

Minimum amount determined

"127.51 An individual's minimum amount for a taxation year is the amount determined by the formula

$$A(B-C)-D$$

where

A is the appropriate percentage for the year;

B is his adjusted taxable income for the year determined under section 127.52;

C is his basic exemption for the year determined under section 127.53; and

D is his basic minimum tax credit for the year determined under section 127.531."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

95.(1) Paragraph 127.52(1)(d) of the said Act is repealed and the following substituted therefor:

> "(d) sections 38 and 41 were read without the references to the fraction set out therein in respect of dispositions of property occurring after 1985;"

(2) All that portion of subparagraph 127.52(1)(g)(ii) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

> "(ii) the aggregate of all amounts each of which is 1/3 of"

(3) Paragraph 127.52(1)(h) of the said Act is repealed and the following substituted therefor:

> "(h) the only amounts deductible under sections 110 to 110.7 in computing his taxable income for the year or his taxable income earned in Canada for the year, as the case may be, were the amounts deducted under any of paragraphs 110(1)(f) and (i) and subsections 110(2), 110.4(1), 110.6(2), (2.1), (3) and (12) and 110.7(1) computed without reference to this section;"

(4) Subsection (1) is applicable to the 1988 and subsequent taxation years.

(5) Subsection (2) is applicable to the 1988 and subsequent taxation years, except that in its application to taxation years ending before 1990 the reference to "1/3" in subparagraph 127.52(g)(ii) of the said Act, as amended by subsection (2), shall be read as a reference to "1/2".

(6) Subsection (3) is applicable to the 1987 and subsequent taxation years except that, in its application to the 1987 taxation year, paragraph 127.52(1)(h) of the said Act, as enacted by subsection (3) shall be read as follows:

> "(h) the only amounts deductible under sections 109 to 110.7 in computing his taxable income for the year or his taxable income earned in Canada for the year, as the case may be, were the amounts deducted under any of subsection 109(1), paragraphs 110(1)(a) to (c), (e), (f), (g) and (i) and subsections 110(2), 110.4(1), 110.6(2), (3) and (12) and 110.7(1) computed without reference to this section.

96.(1) The said Act is further amended by adding thereto, immediately after section 127.53 thereof, the following section:

Basic minimum tax credit determined

"127.531 An individual's basic minimum tax credit for a taxation year is the aggregate of amounts that may be deducted in computing his tax payable for the year under this Part under any of subsections 118(1) and (2), sections 118.1 and 118.2, subsection 118.3(1) and sections 118.5 to 118.7."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

97.(1) Section 127.55 of the said Act is amended by striking out the word "or" at the end of paragraph (b) thereof and by repealing paragraph (c) thereof and substituting therefor the following:

> "(c) an individual for the taxation year in which the individual dies; or
>
> (d) an individual for the 1986 taxation year if the individual dies in 1987."

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

98.(1) Paragraph 128(2)(e) of the said Act is amended by striking out the word "and" at the end of subparagraph (i) thereof, by adding the word "and" at the end of subparagraph (ii) thereof and by adding thereto, immediately after subparagraph (ii) thereof, the following subparagraph:

> "(iii) in computing the tax payable under this Part by the individual, he was not entitled to deduct any amount under any of sections 118 to 118.3, 118.5, 118.6, 118.8 and 118.9,"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

99.(1) Subparagraph 129(1)(a)(i) of the said Act is repealed and the following substituted therefor:

> "(i) 1/4 of all taxable dividends paid by it in the year on shares of its capital stock, and"

(2) Section 129 of the said Act is further amended by adding thereto, immediately after subsection (1.1) thereof, the following subsection:

Dividends deemed not to be taxable dividends

> "(1.2) Where a dividend is paid on a share of the capital stock of a corporation and the share (or another share for which the share was substituted) was acquired by the holder thereof in a transaction or as part of a series of transactions one of the main purposes of which was to enable the corporation to obtain a dividend refund, the dividend shall, for the purpose of subsection (1), be deemed not to be a taxable dividend."

(3) All that portion of paragraph 129(3)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

> "(a) the aggregate of all amounts each of which is an amount in respect of a taxation year commencing after it last became a private corporation and ending not later than the end of the particular taxation year and, where the taxation year commences after November 12, 1981, throughout which the corporation was a Canadian-controlled private corporation, equal to, in respect of taxation years ending before 1978, the least of, in respect of taxation years ending after 1977 and commencing before 1987, 2/3 of the least of, in respect of taxation years commencing after 1986 and before 1988, the least of, and in respect of taxation years commencing after 1987, 4/5 of the least of"

(4) Clause 129(3)(a)(ii)(B) of the said Act is repealed and the following substituted therefor:

> "(B) the amount, if any, by which 30% of the corporation's foreign investment income for the year exceeds the aggregate of amounts deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part,"

(5) Subparagraph 129(3)(a)(iii) of the said Act is repealed and the following substituted therefor:

> "(iii) 25% of the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of
>
> (A) the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year,
>
> (B) 10/3 of the aggregate of amounts deducted under subsection 126(1) from its tax for the year otherwise payable under this Part, and
>
> (C) 10/4 of the aggregate of amounts deducted under subsection 126(2) from its tax for the year otherwise payable under this Part, and"

(6) Subparagraph 129(3)(a)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) 5/4 of the amount of the corporation's tax for the year payable under this Part determined without reference to section 123.2,"

(7) Subsection 129(3) of the said Act is further amended by striking out the word "and" at the end of paragraph (c) thereof, by adding the word "and" at the end of paragraph (d) thereof and by adding thereto the following paragraph:

"(e) the amount, if any, of the corporation's reduction at December 31, 1987 of refundable dividend tax on hand."

(8) Section 129 of the said Act is further amended by adding thereto, immediately after subsection (3.4) thereof, the following subsection:

"Reduction at December 31, 1987 of refundable dividend tax on hand" defined

"(3.5) In subsection (3), "reduction at December 31, 1987 of refundable dividend tax on hand" of a corporation means the amount that is 1/4 of the amount, if any, by which

(a) the amount, if any, of the corporation's refundable dividend tax on hand at the end of its last taxation year commencing before 1988, determined without reference to paragraph (3)(e)

exceeds the aggregate of

(b) the amount, if any, of the tax payable under Part IV by the corporation for its last taxation year commencing before 1988 in respect of taxable dividends received by it in that year and after 1987;

(c) 1/3 of the taxable dividends, if any, paid by the corporation before 1988 in its last taxation year commencing before 1988;

(d) any amount added under paragraph 88(1)(e.5) in computing the corporation's refundable dividend tax on hand at the end of its last taxation year commencing before 1988 in respect of the refundable dividend tax on hand of a subsidiary (within the meaning assigned by subsection 88(1)) for a taxation year commencing after 1987; and

(e) an amount equal to that proportion of 1/5 of the least of the amounts determined under subparagraphs (3)(a)(i) to (iv) in respect of its last taxation year commencing before 1988 that the number of days in the year that are after 1987 is of the number of days in the year."

(9) Subsection (1) is applicable to the 1988 and subsequent taxation years, except that in its application to taxation years commencing before 1988 and ending after 1987, subparagraph 129(1)(a)(i) of the said Act, as enacted by subsection (1), shall be read as follows:

> "(i) the aggregate of 1/3 of all taxable dividends paid by it in the year and before 1988 and 1/4 of all taxable dividends paid by it in the year and after 1987 on shares of its capital stock, and"

(10) Subsection (2) is applicable with respect to dividends paid after 4 p.m. Eastern Daylight Saving Time, September 25, 1987 to a person who is exempt from tax under section 149 of the said Act or is a corporation other than a private corporation and to dividends paid after November 27, 1987.

(11) Subsection (3) is applicable with respect to taxation years commencing after 1987.

(12) Subsection (4) is applicable with respect to the determination of amounts under subparagraph 129(3)(a)(ii)(B) of the said Act, as enacted by that subsection, in respect of taxation years ending after 1987, except that in its application to taxation years commencing before 1988 and ending after 1987, clause 129(3)(a)(ii)(B), as enacted by subsection (4), shall be read as follows:

> "(B), the amount, if any, by which the aggregate of
>
> > (I) that proportion of 40% of the corporation's foreign investment income for the year that the number of days in the year that are before 1988 is of the number of days in the year, and
> >
> > (II) that proportion of 30% of the corporation's foreign investment income for the year that the number of days in the year that are after 1987 is of the number of days in the year
>
> exceeds the aggregate of amounts deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part,"

(13) Subsection (5) is applicable with respect to the determination of amounts under subparagraph 129(3)(a)(iii) of the said Act, as enacted by that subsection, in respect of taxation years commencing after June, 1988.

(14) Subsection (6) is applicable with respect to the determination of amounts under subparagraph 129(3)(a)(iv) of the said Act, as enacted by that subsection, in respect of taxation years commencing after 1987.

(15) Subsections (7) and (8) are applicable to the 1988 and subsequent taxation years.

100.(1) Subsection 130(1) of the said Act is repealed and the following substituted therefor:

Deduction from tax

> "130.(1) A corporation that was, throughout a taxation year, an investment corporation may deduct from the tax otherwise payable by it under this Part for the year an amount equal to 20% of the amount, if any, by which its taxable income for the year exceeds its taxed capital gains for the year."

(2) Subsection (1) is applicable to taxation years ending after 1987, except that in its application to a taxation year of a corporation commencing before July, 1988, there shall be added to the amount determined under subsection 130(1) of the said Act, as enacted by subsection (1), in respect of the corporation for the year the aggregate of

> (a) that proportion of 5% of the excess determined under that subsection in respect of the corporation for the year that the number of days in the year that are before July, 1987 is of the number of days in the year;
>
> (b) that proportion of 4% of the excess determined under that subsection in respect of the corporation for the year that the number of days in the year that are after June, 1987 and before 1988 is of the number of days in the year; and
>
> (c) that proportion of 7% of the excess determined under that subsection in respect of the corporation for the year that the number of days in the year that are after 1987 and before July, 1988 is of the number of days in the year.

101.(1) Subparagraph 130.1(1)(a)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) 3/4 of all capital gains dividends paid by the corporation during the period commencing 91 days after the commencement of the year and ending 90 days after the end of the year; and"

(2) Subparagraph 130.1(4)(a)(i) of the said Act is repealed and the following substituted therefor:

> "(i) 4/3 of the taxed capital gains of the corporation for the year"

(3) Paragraph 130.1(4)(b) of the said Act is repealed and the following substituted therefor:

> "(b) notwithstanding any other provision of this Act, any amount received by a taxpayer in a taxation year as or on account of the dividend shall not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be deemed to be a capital gain of the taxpayer for the year from a disposition of capital property and, for the purposes of section 110.6, that property shall be deemed to have been disposed of by him in the year."

(4) Subsection (1) is applicable to taxation years ending after June, 1988, except that for taxation years ending after June, 1988 and commencing before 1990, the reference to "3/4" in subparagraph 130.1(1)(a)(ii) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

> (a) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year;
>
> (b) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year; and
>
> (c) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year.

(5) Subsection (2) is applicable to taxation years ending after June, 1988, except that for taxation years ending after June, 1988 and commencing before 1990, the reference to "4/3" in

subparagraph 130.1(4)(a)(i) of the said Act, as enacted by subsection (2), shall, in respect of the corporation for the year, be read as a reference to the aggregate of

> (a) that proportion of 2 that the number of days in the year that are before July, 1988 is of the number of days in the year;
>
> (b) that proportion of 3/2 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year; and
>
> (c) that proportion of 4/3 that the number of days in the year that are after 1989 is of the number of days in the year.

(6) Subsection (3) is applicable to the 1988 and subsequent taxation years.

102.(1) Paragraph 131(1)(b) of the said Act is repealed and the following substituted therefor:

> "(b) notwithstanding any other provision of this Act, any amount received by a taxpayer in a taxation year as, on account or in lieu of payment of, or in satisfaction of the dividend shall not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be deemed to be a capital gain of the taxpayer for the year from a disposition of capital property and, for the purposes of section 110.6, that property shall be deemed to have been disposed of by him in the year."

(2) All that portion of subparagraph 131(2)(a)(i) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

> "(i) 21% of the aggregate of"

(3) Paragraph 131(5)(a) of the said Act is amended by striking out the word "and" at the end of subparagraph (ii) thereof and by adding thereto the following subparagraph:

> "(iv) the amount, if any, of the corporation's reduction at December 31, 1987 of refundable dividend tax on hand (within the meaning assigned by subsection 129(3.5)); and"

(4) Clause 131(6)(a)(i)(A) of the said Act is repealed and the following substituted therefor:

"(A) 100/21 of its refundable capital gains tax on hand at the end of the year, and"

(5) Clause 131(6)(b)(ii)(C) of the said Act is repealed and the following substituted therefor:

"(C) all amounts each of which is an amount in respect of any taxation year ending more than 60 days before that time throughout which it was a mutual fund corporation, equal to 100/21 of its capital gains refund for that year;"

(6) Clauses 131(6)(d)(i)(A) and (B) of the said Act are repealed and the following substituted therefor:

"(A) 28% of its taxable income for the year,

(B) 28% of its taxed capital gains for the year, and"

(7) Subsections (1) and (3) are applicable with respect to the 1988 and subsequent taxation years.

(8) Subsection (2) is applicable to taxation years ending after June, 1988, except that in its application to taxation years ending after June, 1988 and before 1990, the reference in subparagraph 131(2)(a)(i) of the said Act, as enacted by subsection (2), to "21%" shall be read as a reference to "18 2/3%".

(9) Subsection (4) is applicable to taxation years ending after June, 1988, except that in its application to taxation years ending after June, 1988 and before 1990, the reference in clause 131(6)(a)(i)(A) of the said Act, as enacted by subsection (4), to "100/21" shall be read as a reference to "75/14".

(10) Subsection (5) is applicable with respect to the determination of amounts under clause 131(6)(b)(ii)(C) of the said Act, as enacted by subsection (5), in respect of taxation years ending after June, 1988, except that in the application of clause 131(6)(b)(ii)(C) of the said Act, as enacted by subsection (5), with respect to the determination of amounts under that clause in respect of taxation years ending after June, 1988 and before 1990, the reference to "100/21" shall be read as a reference to "75/14".

(11) Subsection (6) is applicable with respect to the determination of amounts under clauses 131(6)(d)(i)(A) and (B) of the said Act, as enacted by subsection (6), in respect of taxation years

ending after June, 1988, except that in its application to a taxation year of a corporation commencing before July, 1988 and ending after June, 1988

(a) there shall be added to the amount determined under clause 131(6)(d)(i)(A) of the said Act, as enacted by subsection (6), in respect of the corporation for the year that proportion of 8% of its taxable income for the year that the number of days in the year that are before July, 1988 is of the number of days in the year; and

(b) there shall be added to the amount determined under clause 131(6)(d)(i)(B) of the said Act, as enacted by subsection (6), in respect of the corporation for the year that proportion of 8% of its taxed capital gains for the year that the number of days in the year that are before July, 1988 is of the number of days in the year.

103.(1) Subparagraph 132(1)(a)(i) of the said Act is repealed and the following substituted therefor:

"(i) 21.75% of the trust's capital gains redemptions for the year, and"

(2) Clause 132(4)(a)(i)(A) of the said Act is repealed and the following substituted therefor:

"(A) 100/21.75 of its refundable capital gains tax on hand at the end of the year, and"

(3) Clauses 132(4)(b)(i)(A) and (B) of the said Act are repealed and the following substituted therefor:

"(A) 29% of its taxable income for the year,

(B) 29% of its taxed capital gains for the year, and"

(4) Subsection (1) is applicable to the 1988 and subsequent taxation years, except that in its application to taxation years ending after 1987 and before 1990 the reference in subparagraph 132(1)(a)(i) of the said Act, as enacted by subsection (1), to "21.75%" shall be read as a reference to "19 1/3%".

(5) Subsection (2) is applicable to the 1988 and subsequent taxation years, except that in its application to taxation years ending after 1987 and before 1990 the reference in clause 132(4)(a)(i)(A) of the said Act, as enacted by subsection (2), to "100/21.75" shall be read as a reference to "100/19 1/3".

(6) Subsection (3) is applicable with respect to the determination of amounts under clauses 132(4)(b)(i)(A) and (B) of the said Act, as enacted by subsection (3), in respect of the 1988 and subsequent taxation years.

104.(1) Paragraph 133(1)(d) of the said Act is repealed and the following substituted therefor:

> "(d) any taxable capital gain or allowable capital loss of the corporation were an amount equal to 4/3 of the amount thereof otherwise determined, and"

(2) Subsection (1) is applicable to taxation years ending after June, 1988, except that for taxation years ending after June, 1988 and commencing before 1990, the reference to "4/3" in paragraph 133(1)(d) of the said Act, as enacted by subsection (1), shall, in respect of the corporation for the year, be read as a reference to the aggregate of

> (a) that proportion of 2 that the number of days in the year that are before July, 1988 is of the number of days in the year;
>
> (b) that proportion of 3/2 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year; and
>
> (c) that proportion of 4/3 that the number of days in the year that are after 1989 is of the number of days in the year.

105.(1) Subsection 137(1) of the said Act is repealed.

(2) All that portion of subsection 137(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Additional deduction

> "(3) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was, throughout the year, a credit union, an amount equal to 16% of the amount, if any, by which the lesser of"

(3) Paragraph 137(4.3)(a) of the said Act is repealed and the following substituted therefor:

> "(a) the preferred-rate amount of a corporation at the end of a taxation year is an amount equal to the aggregate of its preferred-rate amount at the end of its immediately preceding

taxation year and 25/4 of the amount deductible under section 125 from the tax for the year otherwise payable by it under this Part;"

(4) Subsection (1) is applicable to taxation years after the first taxation year that commences after June 17, 1987 and ends after 1987, except that, in its application to the first taxation year that commences after June 17, 1987 and ends after 1987, subsection 137(1) of the said Act shall be read without reference to paragraphs (a), (b) and (d) thereof and paragraph 137(1)(c) of the said Act shall be read as follows:

"(c) there shall be included, the amount, if any, by which

(i) the aggregate of all amounts each of which is an amount deducted under paragraph (a) or (b) as a reserve in computing the credit union's income for the immediately preceding taxation year

exceeds

(ii) the prescribed amount of the credit union's 1971 reserve adjustment."

(5) Subsection (2) is applicable to taxation years ending after June, 1988, except that in its application to a taxation year of a corporation commencing before July, 1988 and ending after June, 1988, there shall be added to the amount otherwise determined under subsection 137(3) of the said Act, as enacted by subsection (2), in respect of the corporation for the year that proportion of 5% of the excess determined under subsection 137(3) of the said Act in respect of the corporation for the year that the number of days in the year that are before July, 1988 is of the number of days in the year.

(6) Subsection (3) is applicable to taxation years commencing after June, 1988, except that in the application of paragraph 137(4.3)(a) of the said Act, as enacted by subsection (3), to the first taxation year of a corporation commencing after June, 1988, the preferred-rate amount of the corporation at the end of its immediately preceding taxation year (in this subsection referred to as "that year") shall be deemed to be an amount equal to the aggregate of its preferred-rate amount at the end of the taxation year immediately preceding that year and 4 times the amount deductible under section 125 of the said Act from the tax otherwise payable by the corporation under Part I of the said Act for that year.

106.(1) Paragraph 137.1(1)(b) of the said Act is amended by adding the word "and" at the end of subparagraph (i) thereof, by striking out the word "and" at the end of subparagraph (ii) thereof and by repealing subparagraph (iii) thereof.

(2) Paragraph 137.1(3)(c) of the said Act is repealed.

(3) Subsection 137.1(4) of the said Act is amended by adding the word "or" at the end of paragraph (c) thereof and by repealing paragraph (d) thereof.

(4) Subsection 137.1(5) of the said Act is amended by adding the word "and" at the end of paragraph (b) thereof, by striking out the word "and" at the end of paragraph (c) thereof and by repealing paragraph (d) thereof.

(5) Subsection (1) is applicable to taxation years after the first taxation year that commences after June 17, 1987 and ends after 1987.

(6) Subsections (2) to (4) are applicable to taxation years commencing after June 17, 1987 that end after 1987.

107.(1) Paragraph 138(3)(a) of the said Act is amended by adding thereto, immediately after subparagraph (i) thereof, the following subparagraph:

> "(ii) such amount as is allowed by regulation as a reserve in respect of claims that were received by the insurer before the end of the year under life insurance policies and that are unpaid at the end of the year,"

(2) Subparagraph 138(3)(a)(iv) of the said Act is repealed and the following substituted therefor:

> "(iv) an amount as a reserve for policy dividends that will become payable by the insurer in the immediately following taxation year equal to the least of
>
> > (A) that portion of policy dividends that has accrued in the year to or for the benefit of participating life insurance policyholders of the insurer, to the extent that an amount in respect thereof has not been included, either explicitly or implicitly, in the calculation of the amount deductible by the insurer for the year under subparagraph (i) and, for the purpose of this clause, a policy dividend in respect of a life insurance policy shall be deemed to accrue in equal daily amounts between anniversary dates of the policy,

(B) 110% of the amount paid or unconditionally credited in the taxation year immediately following the year in respect of the portion referred to in clause (A) of policy dividends that has accrued in the year, and

(C) the amount, if any, by which the amount described in clause (iii)(B) for the year exceeds the amount described in clause (iii)(A) for the year, and"

(3) Paragraph 138(3)(c) of the said Act is repealed.

(4) Subsection 138(3) of the said Act is amended by striking out the word "and" at the end of paragraph (e) thereof, by adding the word "and" at the end of paragraph (f) thereof and by adding hereto immediately after paragraph (f) thereof the following paragraph:

"(g) the amount of tax under Part XII.3 payable by the insurer in respect of its taxable Canadian life investment income for the year."

(5) Paragraph 138(4)(a) of the said Act is repealed and the following substituted therefor:

"(a) each amount deducted by the insurer under subparagraphs (3)(a)(i), (ii) or (iv) in computing its income for the immediately preceding taxation year;"

(6) Section 138 of the said Act is further amended by adding thereto, immediately after subsection (4.3) thereof, the following subsections:

Idem

"(4.4) Where, for a period of time in a taxation year, a life insurer

(a) owned land (other than land referred to in paragraph (c) or (d)) or an interest therein that was not held primarily for the purpose of gaining or producing income from the land for the period,

(b) had an interest in a building that was being constructed, renovated or altered,

(c) owned land subjacent to the building referred to in paragraph (b) or an interest therein, or

(d) owned land immediately contiguous to the land referred to in paragraph (c) or an interest therein that was used or was intended to be used for a parking area, driveway, yard, garden or other use necessary for the use or intended use of the building referred to in paragraph (b),

the life insurer shall, where such land or building was property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada, include a prescribed amount in computing its income for the year in respect of the cost or capital cost, as the case may be, of the land, building or interest therein to the insurer for the period, and the amount so included shall, at the end of the period, be included in computing the cost or capital cost to the insurer of that land, building or interest therein, as the case may be.

Application

(4.5) Where, after 1987, a life insurer has transferred or loaned property, directly or indirectly in any manner whatever, to a transferee that was a designated corporation of the insurer (within the meaning assigned by subsection 2405(3) of the Income Tax Regulations) or a person or partnership that does not deal at arm's length with the insurer and

(a) such property,

(b) property substituted for such property, or

(c) property the acquisition of which was assisted by the transfer or loan of such property

was property described in paragraph (4.4)(a), (b), (c) or (d) of the transferee for a period of time in a taxation year of the insurer, the following rules apply:

(d) subsection (4.4) shall apply to the insurer to include an amount in the insurer's income for the year on the assumption that such property was owned by the insurer for the period, was property described in paragraph (4.4)(a), (b), (c) or (d) of the insurer and was used by in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada, and

(e) an amount included in the insurer's income for the year under subsection (4.4) by reason of the application of this subsection shall

> (i) where subparagraph (ii) does not apply, be added by the insurer in computing the cost to it of shares of the capital stock of or an interest in the transferee at the end of the year, or
>
> (ii) where the insurer and the transferee have jointly elected in prescribed form on or before the day that is the earliest of the days on or before which any taxpayer making the election is required to file a return pursuant to section 150 for the taxation year that includes the period, be added in computing the cost or capital cost, as the case may be, to the transferee of such property.

Completion

(4.6) For the purposes of subsection (4.4), the construction, renovation or alteration of a building is completed at the earlier of the day on which the construction, renovation or alteration is actually completed and the day on which all or substantially all of the building is used for the purpose for which it was constructed, renovated or altered."

(7) Paragraph 138(5)(a) of the said Act is repealed and the following substituted therefor:

> "(a) in the case of an insurer, no deduction may be made under paragraph 20(1)(l) in computing its income for a taxation year from an insurance business in Canada in respect of a premium or other consideration for a life insurance policy in Canada or an interest therein; and"

(8) Section 138 of the said Act is further amended by adding thereto, immediately after subsection (5.1) thereof, the following subsection:

Idem

"(5.2) Notwithstanding paragraph (3)(b) and subsection (11.4), in computing an insurer's income for a taxation year from carrying on an insurance business, no amount shall be deducted in respect of a loss sustained by the insurer on a disposition (other than a disposition occurring as a result of the application of subsection (11.3)) of property that is a share, bond, debenture, mortgage, note, hypothec, agreement of sale or any other form of indebtedness that was not a capital property of the insurer and was used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in any case where

> (a) during the period commencing 30 days before and ending 30 days after the disposition, the insurer or a person or partnership that does not deal at arm's length with the insurer acquired or agreed to acquire the same or an identical property (in this subsection referred to as the "substituted property"), and
>
> (b) at the end of the period referred to in paragraph (a), the insurer or the person or partnership, as the case may be, owned or had a right to acquire the substituted property,

and any such loss shall be added in computing the cost to the insurer or the person or partnership, as the case may be, of the substituted property."

(9) Subsection 138(9) of the said Act is repealed and the following substituted therefor:

Computation of income

"(9) Where in a taxation year an insurer (other than a resident of Canada that does not carry on a life insurance business) carried on an insurance business in Canada and in a country other than Canada, there shall be included in computing its income for the year from carrying on its insurance businesses in Canada the aggregate of

> (a) that part of its gross investment revenue for the year that is gross investment revenue from property used by it in the year in, or held by it in the year in the course of, carrying on those insurance businesses in Canada, and
>
> (b) such additional amount as is prescribed in respect of the insurer for the year by regulation."

(10) Subsection 138(9.1) of the said Act is repealed.

(11) All that portion of subsection 138(11.3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Deemed disposition

"(11.3) Except for the purposes of the definition "amortized cost" in subsection 248(1) as it applies to paragraph 20(1)(l), subparagraph 13(21)(f)(i), clause 13(21)(f)(iv)(B), paragraphs (3)(d) and (4)(c) and any regulations made for the purposes of paragraph (12)(l), where a life insurer resident in Canada, or a non-resident insurer, that carries on an insurance business in Canada and in a country other than Canada, at any time,"

(12) Subsection 138(11.3) of the said Act is further amended by striking out the word "or" at the end of paragraph (a) thereof and by adding thereto, immediately after paragraph (b) thereof, the following paragraphs:

"(c) acquires property that is a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness for use as property used by it in the year in, or held by it in the year in the course of, carrying on a life insurance business in Canada and at a later time commences to use the property in, or hold it in the course of, carrying on a business other than a life insurance business in Canada, or

(d) acquires property that is a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness for use in, or to be held in the course of, carrying on a business other than a life insurance business in Canada and at a later time commences to use the property as property used by it in the year in, or held by it in the year in the course of, carrying on a life insurance business in Canada,"

(13) Section 138 of the said Act is further amended by adding thereto, immediately after subsection (11.4) thereof, the following subsection:

Inclusion of gain

"(11.41) Where, by reason of a change in use referred to in paragraph (11.3)(c) or (d) of a property that is a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness, an insurer would, by reason of subsection (11.3), have realized an otherwise taxable gain at any time in respect of such property, that gain shall be included in computing the income of the insurer only in the taxation year in which the insurer disposes of or is deemed to have disposed of the property otherwise than by reason of a change in use of the property referred to in paragraph (11.3)(c) or (d)."

(14) Subsection 138(11.5) of the said Act is repealed and the following substituted therefor:

Transfer of insurance business by non-resident insurer

"(11.5) Where,

(a) a non-resident insurer (in this subsection referred to as the "transferor") has, at any time in a taxation year, ceased to carry on all or substantially all of an insurance business carried on by it in Canada in that year,

(b) the transferor has, at that time or within 60 days thereafter, transferred all or substantially all of the property used by it in the year in, or held by it in the year in the course of, carrying on that insurance business in Canada in that year (in this subsection referred to as the "transferred property") to a corporation (in this subsection referred to as the "transferee") that is a qualified related corporation (within the meaning assigned by subsection 219(8)) of the transferor which, immediately after that time, commenced to carry on that insurance business in Canada and the consideration for the transfer includes shares of the capital stock of the transferee,

(c) the transferee has, at that time or within 60 days thereafter, assumed or reinsured all or substantially all of the obligations of the transferor which arose in the course of carrying on that insurance business in Canada, and

(d) the transferor and the transferee have jointly elected in prescribed form and in accordance with subsection (11.6),

the following rules apply:

(e) where the fair market value, at that time, of the consideration (other than shares of the capital stock of the transferee or a right to receive any such shares) received or receivable by the transferor for the transferred property does not exceed the aggregate of the cost amounts to the transferor, at that time, of the transferred property, the proceeds of disposition of the transferor and the cost to the transferee of the transferred property shall be deemed to be the cost amount, at that time, to the transferor of the transferred property, and in any other case, the provisions of subsection 85(1) shall be applied in respect of the transfer;

(f) where the provisions of subsection 85(1) are not required to be applied in respect of the transfer, the cost to the transferor of any particular property (other than shares of the capital stock of the transferee or a right to receive any such shares) received or receivable by it as consideration for the transferred property shall be deemed to be the fair market value, at that time, of the particular property;

(g) where the provisions of subsection 85(1) are not required to be applied in respect of the transfer, the cost to the transferor of any shares of the capital stock of the transferee received or receivable by the transferor as consideration for the transferred property shall be deemed to be

(i) where the shares are preferred shares of any class of the capital stock of the transferee, the lesser of

(A) the fair market value of those shares immediately after the transfer of the transferred property, and

(B) the amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the amount, if any, by which the proceeds of disposition of the transferor of the transferred property determined under paragraph (e) exceed the fair market value, at that time, of the consideration (other than shares of the capital stock of the transferee or a right to receive any such shares) received or receivable by the transferor for the transferred property,

B is the fair market value, immediately after the transfer of the transferred property, of those preferred shares of that class, and

C is the fair market value, immediately after the transfer of the transferred property, of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property, and

(ii) where the shares are common shares of any class of the capital stock of the transferee, the amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the amount, if any, by which the proceeds of disposition of the transferor of the transferred property determined under paragraph (e) exceed the aggregate of the fair market value, at that time, of the consideration (other than shares of the capital stock of the transferee or a right to receive any such shares) received or receivable by the transferor for the transferred property and the cost to the transferor of all preferred shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property,

B is the fair market value, immediately after the transfer of the transferred property, of those shares of that class, and

C is the fair market value, immediately after the transfer of the transferred property, of all common shares of the capital stock of the transferee receivable by the transferor as consideration for the transferred property;

(h) for the purposes of this Act, the transferor and the transferee shall be deemed to have had taxation years ending immediately before that time and, for the purposes of determining the fiscal periods of the transferor and transferee after that time, they shall be deemed not to have established fiscal periods before that time;

(i) for the purpose of determining the amount of gross investment revenue required to be included in computing the transferor's income for the year under subsection 138(9) and its gains and losses from property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada for its taxation years following its year referred to in paragraph (h), the transferor shall be deemed to have transferred the business referred to in paragraph (a), the property referred to in paragraph (b) and the obligations referred to in paragraph (c) to the transferee on the last day of its taxation year referred to in paragraph (h);

(j) for the purpose of determining the income of the transferor and the transferee for their taxation years following their taxation years referred to in paragraph (h), amounts deducted by the transferor as reserves under paragraphs 20(1)(l) and (l.1) and 20(7)(c), subparagraphs (3)(a)(i), (ii) and (iv), paragraph (3)(c) and section 33 in its taxation year referred to in paragraph (h) in respect of the transferred property referred to in paragraph (b) or the obligations referred to in paragraph (c) shall be deemed to have been deducted by the transferee, and not the transferor, for its taxation year referred to in paragraph (h);

(k) for the purposes of this section and sections 12, 12.3, 12.4, 20, 33, 138.1, 140, 142 and 148, the transferee shall, in its taxation years following its taxation year referred to in paragraph (h), be deemed to be the same person as, and a continuation of, the transferor in respect of the business referred to in paragraph (a), the transferred property referred to in paragraph (b) and the obligations referred to in paragraph (c);

(l) for the purposes of this subsection and subsections (11.7) and (11.9), the amounts deducted by the transferor as reserves under paragraph 20(7)(c) and subparagraphs (3)(a)(i), (ii) and (iv) in its taxation year referred to in paragraph (h) in respect of a particular obligation referred to in paragraph (c) shall be deemed to be the fair market value of consideration received by the transferor from the transferee in respect of the assumption or reinsurance of that particular obligation; and

(m) for the purpose of computing the income of the transferor or the transferee for their taxation years following their taxation years referred to in paragraph (h),

(i) an amount in respect of a reinsurance premium paid or payable by the transferor to the transferee in respect of the obligations referred to in paragraph (c), or

(ii) an amount in respect of a reinsurance commission paid or payable by the transferee to the transferor in respect of the amount referred to in subparagraph (i)

under a reinsurance arrangement undertaken to effect the transfer of the insurance business to which this subsection applied shall be included or deducted, as the case may be, only to the extent that may be reasonably regarded as necessary to determine the appropriate amount of income of both the transferor and the transferee."

(15) Section 138 of the said Act is further amended by adding thereto, immediately after subsection (11.6) thereof, the following subsections:

Computation of paid-up capital

"(11.7) Where, after December 15, 1987, subsection (11.5) is applicable in respect of a transfer of property by a non-resident insurer to a qualified related corporation of the insurer and the provisions of subsection 85(1) were not required to be applied in respect of the transfer, the following rules apply:

(a) in computing the paid-up capital, at any time after the transfer, in respect of any particular class of shares of the capital stock of the qualified related corporation, there shall be deducted an amount determined by the formula

$$(A - B) \times \frac{C}{A}$$

where

A is the increase, if any, determined without reference to this subsection as it applies to the transfer, in the paid-up capital in respect of all the shares of the capital stock of the corporation as a result of the transfer,

B is the amount, if any, by which the cost of the transferred property to the corporation, immediately after the transfer, exceeds the fair market value, immediately after the transfer, of any consideration (other than shares of the capital stock of the corporation) received or receivable by the insurer from the corporation for the property, and

C is the increase, if any, determined without reference to this subsection as it applies to the transfer, in the paid-up capital in respect of the particular class of shares as a result of the acquisition by the corporation of the transferred property; and

(b) in computing the paid-up capital, at any time after December 15, 1987, in respect of any particular class of shares of the capital stock of the qualified related corporation, there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the aggregate of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid after December 15, 1987 and before that time by the corporation

exceeds

(B) the aggregate of such dividends that would have been determined under clause (A) if this Act were read without reference to paragraph (a), and

(ii) the aggregate of all amounts each of which is an amount required by paragraph (a) to be deducted in computing the paid-up capital in respect of that class of shares after December 15, 1987 and before that time.

Rules on transfers of depreciable property

(11.8) Where

(a) subsection (11.5) is applicable in respect of a transfer of depreciable property by a non-resident insurer to a qualified related corporation,

(b) the provisions of subsection 85(1) were not required to be applied in respect of the transfer, and

(c) the capital cost to the insurer of the depreciable property exceeds its proceeds of disposition therefor,

for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a), the following rules apply:

(d) the capital cost of the depreciable property to the corporation shall be deemed to be the amount that was the capital cost thereof to the insurer; and

(e) the excess shall be deemed to have been allowed to the corporation in respect of the property under regulations made under paragraph 20(1)(a) in computing its income for taxation years ending before the transfer.

Computation of contributed surplus

(11.9) Where, after December 15, 1987, subsection (11.5) or 85(1) is applicable in respect of a transfer of property by a person or partnership to an insurance corporation resident in Canada and

(a) the aggregate of

(i) the fair market value, immediately after the transfer, of any consideration (other than shares of the capital stock of the corporation) received or receivable by the person or partnership from the corporation for the transferred property,

(ii) the increase, if any, in the paid-up capital of all the shares of the capital stock of the corporation (determined without reference to subsection (11.7) or 85(2.1) as it applies in respect of the transfer) arising on the transfer, and

(iii) the increase, if any, in the contributed surplus of the corporation (determined without reference to this subsection as it applies in respect of the transfer) arising on the transfer

exceeds

(b) the total of

(i) the aggregate of all amounts each of which is an amount required to be deducted in computing the paid-up capital of a class of shares of the capital stock of the corporation under subsection (11.7) or 85(2.1), as the case may be, as it applies in respect of the transfer, and

(ii) the cost to the corporation of the transferred property,

for the purposes of paragraph 84(1)(c.1) and subsections 219(5.2) and (5.3), the contributed surplus of the corporation arising on the transfer shall be deemed to be the amount, if any, by which the amount of such contributed surplus otherwise determined exceeds the amount, if any, by which the aggregate determined under paragraph (a) exceeds the total determined under paragraph (b).

Computation of income of non-resident insurer

(11.10) Where, at any time in a particular taxation year,

(a) a non-resident insurer carries on an insurance business in Canada, and

(b) immediately before that time, the insurer was not carrying on an insurance business in Canada or ceased to be exempt from tax under this Part on any income from such business by reason of any Act of Parliament or anything approved, made or declared to have the force of law thereunder,

for the purpose of computing the income of the insurer for the particular taxation year,

(c) the insurer shall be deemed to have had a taxation year ending immediately before the commencement of the particular taxation year;

(d) for the purposes of paragraphs 12(1)(d), and (e), paragraph (4)(a), subsection (9) and any regulations made under paragraph (12)(1), the insurer shall be deemed to have carried on the business referred to in paragraph (a) in Canada in the immediately preceding taxation year referred to in paragraph (c) and to have claimed the maximum amounts to which it would have been entitled under paragraphs 20(1)(1) and (1.1) and 20(7)(c), subparagraphs (3)(a)(i), (ii) and (iv), paragraph (3)(c) and section 33 for that year;

(e) the insurer shall, immediately before the commencement of the particular taxation year, be deemed to have disposed of each property that was owned by it at that time and used by it in the year in, or held by it in the year in the course of, carrying on the business referred to in paragraph (a) for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired the property at that time at a cost equal to that fair market value; and

(f) where paragraph (e) applies in respect of depreciable property of the insurer and the cost thereof to the insurer immediately before the commencement of the particular taxation year exceeds the fair market value thereof at that time, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) the capital cost of the property to the insurer at that time shall be deemed to be the cost thereof to the insurer at that time, and

(ii) the excess shall be deemed to have been allowed to the insurer in respect of the property under regulations made under paragraph 20(1)(a) in computing its income for taxation years ending before the commencement of the particular taxation year.

Computation of income where insurance business is transferred

(11.11) Where, at any time in a taxation year, an insurer (in this subsection referred to as the "vendor") has disposed of

(a) all or substantially all of an insurance business carried on by it in Canada, or

(b) all or substantially all of a line of business of an insurance business carried on by it in Canada

to a person (in this subsection referred to as the "purchaser") and the obligations in respect of the business or line of business, as the case may be, were reinsured by the purchaser, the following rules apply:

(c) for the purpose of determining the gross investment revenue and the gains and losses from property of the vendor and the purchaser,

(i) the vendor and the purchaser shall be deemed to have had a taxation year ending immediately before that time, and

(ii) for the taxation years of the vendor and the purchaser following that time, the business or line of business, as the case may be, disposed of to, and the obligations in respect thereof reinsured by, the purchaser shall be deemed to have been disposed of or reinsured, as the case may be, on the last day of the taxation year referred to in subparagraph (i);

(d) for the purpose of computing the income of the vendor and the purchaser for taxation years ending after that time,

(i) an amount in respect of a reinsurance premium paid or payable by the vendor to the purchaser in respect of the obligations which arose in the course of carrying on the business or line of business, as the case may be, or

(ii) an amount in respect of a reinsurance commission paid or payable by the purchaser to the vendor in respect of the amount referred to in subparagraph (i)

shall be deemed to have been paid or payable or received or receivable, as the case may be, by the vendor or the purchaser, as the case may be, in the course of carrying on the business or line of business, as the case may be; and

(e) where the vendor has disposed of all or substantially all of an insurance business referred to in paragraph (a), the vendor shall, for the purposes of section 219, be deemed to have ceased to carry on that business at that time.

Property acquired on default in payment

(11.12) Notwithstanding section 79, where, at any time in a taxation year, an insurer has acquired or reacquired the beneficial ownership of property in consequence of another person's failure to pay all or any part of an amount (in this subsection referred to as the "insurer's claim") owing by him to the insurer in respect of a bond, debenture, mortgage, hypothec, agreement of sale or any other form of indebtedness owned by the insurer, the following rules apply:

(a) in computing the other person's proceeds of disposition of the property, there shall be included the amount of the insurer's claim;

(b) any amount paid by the other person after the acquisition or reacquisition, as the case may be, of the property on account of or in satisfaction of the insurer's claim shall be deemed to be a loss of that person from the disposition of the property for his taxation year in which payment of that amount was made;

(c) the insurer shall be deemed to have acquired or reacquired, as the case may be, the property at an amount equal to the fair market value of the property, immediately before that time, and to have disposed of the bond, debenture, mortgage, hypothec, agreement of sale or other form of indebtedness, as the case may be, for proceeds of disposition equal to that fair market value;

(d) the cost amount to the insurer of the insurer's claim shall be deemed to be nil and the insurer's claim shall be deemed to be a bond, debenture, mortgage, hypothec, agreement of sale or other form of indebtedness, as the case may be; and

(e) in computing the insurer's income for the year or a subsequent year, no amount is deductible in respect of the insurer's claim by reason of paragraph 20(1)(l).

Transfer of insurance business by resident insurer

(11.13) Where,

(a) an insurer resident in Canada (in this subsection referred to as the "transferor") has, at any time in a taxation year, ceased to carry on all or substantially all of an insurance business carried on by it in Canada in that year,

(b) the transferor has, at that time or within 60 days thereafter, transferred all or substantially all of the property used by it in the year in, or held by it in the year in the course of, carrying on that insurance business in Canada in that year to a corporation resident in Canada (in this subsection referred to as the "transferee") that is a subsidiary wholly-owned corporation of the transferor which, immediately after that time, commenced to carry on that insurance business in Canada and the consideration for the transfer includes shares of the capital stock of the transferee,

(c) the transferee has, at that time or within 60 days thereafter, assumed or reinsured all or substantially all of the obligations of the transferor which arose in the course of carrying on that insurance business in Canada, and

(d) the transferor and the transferee have jointly elected in prescribed form and in accordance with subsection (11.6),

paragraphs (11.5)(e) to (m) and subsections (11.7) to (11.9) apply in respect of the transfer."

(16) Paragraph 138(12)(b) of the said Act is repealed.

(17) Paragraph 138(12)(k.1) of the said Act is repealed and the following substituted therefor:

"Policy loan"

"(k.1) "policy loan" means an amount advanced at a particular time by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy in Canada;"

(18) Subsection 138(12) of the said Act is further amended by adding thereto, immediately after paragraph (l) thereof, the following paragraph:

"Qualified related corporation"

"(l.1) "qualified related corporation" of a non-resident insurer has the meaning assigned by subsection 219(8);"

(19) Subparagraph 138(12)(o)(vi) of the said Act is repealed and the following substituted therefor:

"(vi) all gifts made in the period by the insurer to a person or organization described in paragraph 110.1(1)(a) or (b), and"

(20) Subsection 138(13) of the said Act is repealed and the following substituted therefor:

Where meaning of amortized cost varied

"(13) For the purposes of the definition "amortized cost" in subsection 248(1), where in a taxation year ending after 1968 and before the particular time referred to in that definition an insurer carried on a life insurance business in Canada and an insurance business in a country other than Canada and has not made an election under subsection (9) as it read in its application to the 1977 taxation year in respect of that year, each of the amounts referred to in paragraph (c), (d), (f) or (h) in that definition shall, in respect of that year, be deemed to be the greater of

(a) each such amount, and

(b) that proportion of the amount referred to in paragraph (a) that the value for the taxation year of the insurer's specified Canadian assets is of its Canadian investment fund for the taxation year."

(21) Subsections (1) to (13), (16) to (18) and (20) and subsections 138(11.10) and (11.12) of the said Act, as enacted by subsection (15), are applicable to taxation years commencing after June 17, 1987 that end after 1987, except that, in applying

paragraph 138(4)(a) of the said Act, as enacted by subsection (5), for the first taxation year that commences after June 17, 1987 and ends after 1987, that paragraph shall be read as follows:

> "(a) the amount, if any, by which the aggregate of all amounts each of which is an amount deducted by the insurer under subparagraphs (3)(a)(i), (ii) or (iv) or paragraph (3)(c) in computing its income for the immediately preceding taxation year exceeds the prescribed amount of the insurer's 1968 reserve adjustment;"

(22) Subsection (14) is applicable to transfers of an insurance business after December 15, 1987 and, where the transferor has, before December 16, 1987 and with the approval of the Minister of Finance, entered into an agreement to transfer, after December 15, 1987 and before 1988, an insurance business to the transferee and the transferor and the transferee subsequently amend the agreement or enter into another agreement in 1988 in respect of the transfer of the insurance business and the transfer of the insurance business is made before 1989, then, if the amended or subsequent agreement so provides and the transferor and the transferee jointly so elect in accordance with subsection 138(11.6) of the said Act, the transfer shall be deemed to have occurred on January 1, 1988.

(23) Subsection 138(11.7) of the said Act, as enacted by subsection (15), is applicable after December 15, 1987.

(24) Subsections 138(11.8) and (11.9) of the said Act, as enacted by subsection (15), are applicable to transfers of property occurring after December 15, 1987.

(25) Subsection 138(11.11) of the said Act, as enacted by subsection (15), is applicable to dispositions of an insurance business or a line of business of an insurance business occurring after December 15, 1987.

(26) Subsection 138(11.13) of the said Act, as enacted by subsection (15), is applicable to transfers of an insurance business after December 15, 1987.

(27) Subsection (19) is applicable to the 1988 and subsequent taxation years.

108.(1) Section 140 of the said Act is repealed and the following substituted therefor:

Deductions in computing income

"140.(1) In computing the income for a taxation year of an insurance corporation, whether a mutual corporation or a joint stock company, from carrying on an insurance business other than a life insurance business, there may be deducted every amount credited in respect of that business for the year or a preceding taxation year to a policyholder of the corporation by way of a dividend, refund of premiums or refund of premium deposits if the amount was, during the year or within 12 months thereafter,

(a) paid or unconditionally credited to the policyholder; or

(b) applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the corporation.

Inclusion in computing income

(2) There shall be included in computing the income of an insurance corporation, whether a mutual corporation or a joint stock company, from carrying on an insurance business for its first taxation year that commences after June 17, 1987 and ends after 1987 (in this subsection referred to as its "1988 taxation year") the amount, if any, by which

(a) the aggregate of all amounts each of which is an amount deducted by the corporation in computing its income for a taxation year ending before its 1988 taxation year pursuant to paragraph 140(c) or pursuant to that paragraph by reason of subparagraph 138(3)(a)(v) as it read in respect of those taxation years in respect of amounts credited to the account of the policyholder on terms that he is entitled to payment thereof on or before the expiry or termination of the policy

exceeds

(b) the aggregate of all amounts each of which is an amount paid or unconditionally credited to a policyholder before the corporation's 1988 taxation year in respect of the amounts credited to the account of the policyholder referred to in paragraph (a)."

(2) Subsection (1) is applicable to taxation years commencing after June 17, 1987 that end after 1987.

109.(1) Paragraph 143(2)(a) of the said Act is repealed and the following substituted therefor:

"(a) determine the amount that would be the taxable income of the trust for the year if no deductions were made in respect of expenses incurred for the support, maintenance and satisfaction or personal needs of its members,"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

110.(1) Paragraph 144(3)(f) of the said Act is repealed and the following substituted therefor:

"(f) interest received by the trust."

(2) All that portion of subsection 144(8.2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Allocation of interest income deduction

"(8.2) Where interest has been included in computing the income of a trust for a taxation year during which the trust was governed by an employees profit sharing plan, and there has been allocated by the trustee under the plan for the purposes of this subsection an amount for the year to one or more of the employees who are beneficiaries under the plan, which amount or the aggregate of which amounts does not exceed the amount of such interest so included, each of the employees who are beneficiaries under the plan shall be deemed to have received interest equal to the lesser of"

(3) Subsections (1) and (2) are applicable to the 1988 and subsequent taxation years.

111.(1) Subparagraph 146(1)(c)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) amounts deductible under paragraph 8(1)(m) in computing the income of the taxpayer,"

(2) Subparagraph 146(1)(h)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) any person other than the annuitant was permitted a deduction under paragraph 118(1)(d) in respect of the dependant in computing his tax payable under this Part for the taxation year immediately preceding the taxation year in which the annuitant died, or"

(3) Subparagraph 146(10.1)(b)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) paragraphs 38(a) and (b) shall be read without reference to the fractions set out therein."

(4) Subsections (1) to (3) are applicable to the 1988 and subsequent taxation years.

112.(1) Subparagraph 146.1(1)(h)(iv) of the said Act is repealed and the following is substituted therefor:

> "(iv) the payment to, or to a trust in favour of, designated educational institutions in Canada referred to subparagraph (a)(i) of the definition of that expression in subsection 118.6(1), or"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

113.(1) Subparagraph 146.3(9)(b)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) paragraphs 38(a) and (b) shall be read without reference to the fractions set out therein."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

114.(1) Clauses 149(1)(j)(ii)(A) and (B) of the said Act are repealed and the following substituted therefor:

> "(A) an expenditure on scientific research and experimental development (within the meaning that would be assigned by subsection 37(7) if that subsection were read without reference to paragraph (f) thereof) directly undertaken by or on behalf of the corporation, or
>
> (B) a payment to an association, university, college or research institute or other similar institution, described in clause 37(1)(a)(ii)(A) or (B) to be used for scientific research and experimental development, and"

(2) Paragraph 149(1)(t) of the said Act is repealed and the following substituted therefor:

Farmers' and fishermen's insurers

"(t) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, not less than 25% of the gross premium income (net of reinsurance ceded) of the insurer and all other insurers that were specified shareholders of the insurer or were related to the insurer or, where the insurer is a mutual corporation, all other insurers that were part of a group that controlled or were controlled by the insurer for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen;"

(3) Subsection 149(3) of the said Act is repealed and the following substituted therefor:

Application of subsection (1)

"(3) Subsection (1) does not apply in respect of the taxable income of a benevolent or fraternal society or order from carrying on a life insurance business or, for greater certainty, from the sale of property used by it in the year in, or held by it in year in the course of, carrying on a life insurance business."

(4) Section 149 of the said Act is further amended by adding thereto immediately after subsection (4) thereof, the following subsections:

Idem

"(4.1) Subject to subsection (4.2), subsection (1) shall apply in respect of an insurer described in paragraph (t) only in respect of that proportion of the insurer's taxable income for a taxation year that

(a) the insurer's gross premium income (net of reinsurance ceded) for the year that in the opinion of the Minister on the advice of the Superintendent of Insurance was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen

is of

(b) its gross premium income (net of reinsurance ceded) for the year and, in computing the taxable income of the insurer for the taxation year, the insurer shall be deemed to have claimed or deducted in each of the taxation years preceding the year the greater of such amount as it claimed or deducted or such amount as it may have been entitled to claim or deduct under paragraphs 20(1)(a), 20(7)(c) and 138(3)(a) and section 140 to the extent that that amount does not exceed its taxable income otherwise determined for such preceding taxation year.

Idem

(4.2) Subsection (4.1) shall not apply in respect of an insurer described in paragraph (1)(t) in respect of the taxable income of the insurer for a taxation year where more than 90% of the gross premium income (net of reinsurance ceded) of the insurer and all other insurers that were specified shareholders of the insurer or were related to the insurer or, where the insurer is a mutual corporation, all other insurers that were part of a group that controlled or were controlled by the insurer for the year was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen."

(5) Subparagraph 149(5)(f)(ii) of the said Act is repealed and the following substituted therefor:

> "(ii) no deduction shall be made under section 112 or 113; and"

(6) Subsection (1) is applicable after December 15, 1987.

(7) Subsections (2) and (4) are applicable to the 1989 and subsequent taxation years.

(8) Subsection (3) is applicable to taxation years commencing after June 17, 1987 that end after 1987.

(9) Subsection (5) is applicable to the 1988 and subsequent taxation years.

115.(1) Subparagraph 149.1(1)(b)(iv) of the said Act is repealed and the following substituted therefor:

> "(iv) where it has been designated as a private foundation or public foundation pursuant to subsection (6.3) or 110(8.1) or (8.2) or has applied after February 15, 1984 for registration under paragraph 110(8)(c) or under the definition "registered charity" in subsection 248(1), not more than 50% of the

capital of which has been contributed or otherwise paid into the organization by one person or members of a group of persons who do not deal with each other at arm's length and, for the purpose of this subparagraph, a reference to any person or to members of a group does not include a reference to Her Majesty in right of Canada or a province, a municipality, another registered charity that is not a private foundation, or any club, society or association described in paragraph 149(1)(l);"

(2) All that portion of subparagraph 149.1(1)(e)(i) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(i) 80% of the aggregate of all amounts each of which is the amount of a gift for which the foundation issued a receipt described in paragraph 110.1(1)(a) or 118.1(1)(a) in its immediately preceding taxation year, other than"

(3) All that portion of subparagraph 149.1(1)(g)(i) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

"(i) where the foundation has been registered after February 15, 1984 or designated as a private foundation or charitable organization pursuant to subsection (6.3) or 110(8.1) or (8.2),"

(4) Paragraph 149.1(1)(h) of the said Act is repealed and the following substituted therefor:

"qualified donee"

"(h) "qualified donee" means a donee described in any of paragraphs 110.1(1)(a) and (b) and the definitions "total charitable gifts" and "total Crown gifts" in subsection 118.1(1);"

(5) Section 149.1 of the said Act is further amended by adding thereto, immediately after subsection (6.2) thereof the following subsection:

Designation as public foundation etc.

"(6.3) The Minister may, by notice sent by registered mail to a registered charity, on his own initiative or on application made to him in prescribed form, designate the charity to be a charitable organization, private foundation or public foundation and the charity shall be deemed to be registered as a charitable organization, private foundation or public foundation, as the case may be, for taxation years commencing after the day of mailing of the notice unless and until it is otherwise designated under this subsection or its registration is revoked under subsection (2), (3), (4), (4.1) or 168(2)."

(6) All that portion of subsection 149.1(9) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

"shall, notwithstanding subsection (8), be deemed to be income of the charity and the amount of a gift for which it issued a receipt described in paragraph 110.1(1)(a) or subsection 118.1(2) in its taxation year in which the period referred to in paragraph (a) expires if that paragraph is applicable or in which the earlier time referred to in paragraph (b) occurs if that paragraph is applicable."

(7) Clause 149.1(12)(b)(ii)(A) of the said Act is repealed and the following substituted therefor:

"(A) has not been allowed a deduction under paragraph 110.1(1)(a) in computing his taxable income or under subsection 118.1(3) in computing his tax payable under this Part, or"

(8) Subsections (1) to (5) are applicable to the 1988 and subsequent taxation years except that in its application to the 1988 taxation year the reference to "paragraph 110.1(1)(a) or 118.1(1)(a)" in subparagraph 149.1(1)(e)(i) of the said Act, as enacted by subsection (2), shall be read as a reference to "paragraph 110(1)(a), 110.1(1)(a) or 118.1(1)(a)".

(9) Subsections (6) and (7) are applicable in respect of gifts made by donors in the 1988 or subsequent taxation years of the donors.

116.(1) Paragraph 150(4)(d) of the said Act is repealed and the following substituted therefor:

"(d) subject to sections 114.2 and 118.12, that other person were entitled to the deductions to which the taxpayer was entitled under sections 110, 118 to 118.7 and 118.9 for the period in computing his taxable income or tax payable under this Part, as the case may be, for the period".

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

117.(1) Section 152 of the said Act is amended by adding thereto, immediately after subsection (1.1) thereof, the following subsections:

Determination pursuant to section 245

"(1.11) Where at any time the Minister ascertains the tax consequences to a taxpayer by reason of subsection 245(2) with respect to a transaction

(a) in the case of a determination pursuant to paragraph 245(8)(a), he shall, or

(b) in any other case, he may

determine any amount that is relevant for the purposes of computing the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to the taxpayer under this Act and, where such a determination is made, he shall send to the taxpayer, with all due dispatch, a notice of determination stating the amount so determined.

Idem

(1.12) A determination of an amount shall not be made with respect to a taxpayer under subsection (1.11) at a time where that amount is relevant only for the purposes of computing the income, taxable income, or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to the person under this Act for a taxation year ending before that time."

(2) Subsections 152(1.2) and (1.3) of the said Act are repealed and the following substituted therefor:

Provisions applicable

"(1.2) Paragraphs 56(1)(1) and 60(o), this Division and Division J, as they relate to an assessment or a reassessment and to assessing or reassessing tax, are applicable, with such modifications as the circumstances require, to a determination or a redetermination and to determining or redetermining amounts under this Division, except that subsections (1) and (2) are not applicable to determinations made under subsections (1.1) and (1.11) and, for greater certainty, an original determination of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the taxpayer.

Determination binding

(1.3) For greater certainty, where the Minister makes a determination of the amount of a taxpayer's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year or makes a determination under subsection (1.11) with respect to a taxpayer, the determination is (subject to the taxpayer's rights of objection and appeal in respect of the determination and to any redetermination by the Minister) binding on both the Minister and the taxpayer for the purpose of calculating the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or amount refundable to the taxpayer, as the case may be, for any taxation year."

(3) Subsection 152(4) of the said Act is amended by striking out the word "or" at the end of subparagraph (b)(i) thereof and the word "and" at the end of subparagraph (b)(ii) thereof and by repealing all that portion thereof following subparagraph (b)(ii) thereof and substituting the following therefor:

"(iii) there is reason, as a consequence of a transaction involving the taxpayer and a non-resident person with whom he was not dealing at arm's length, to assess or reassess the taxpayer's tax for any relevant taxation year, or

(iv) there is reason, as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, to assess or reassess the taxpayer's tax for any relevant taxation year, and

(c) within 3 years from the day referred to in subparagraph (a)(ii), in any other case,

reassess or make additional assessments, or assess tax, interest or penalties under this Part, as the circumstances require, except that a reassessment, an additional assessment or assessment may be made under paragraph (b) after 3 years from the day referred to in subparagraph (a)(ii) only to the extent that it may reasonably be regarded as relating to

(d) the assessment or reassessment referred to in subparagraphs (b)(i) or (ii);

(e) the transaction referred to in subparagraph (b)(iii); or

(f) the additional payment or reimbursement referred to in subparagraph (b)(iv)."

(4) Paragraph 152(6)(c) of the said Act is repealed and the following substituted therefor:

"(c) a deduction under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a loss for a subsequent taxation year,"

(5) Paragraphs 152(6)(e), (f) and (g) of the said Act are repealed and the following substituted therefor:

"(e) a deduction under section 125.2 in respect of an unused Part VI tax credit (within the meaning assigned by subsection 125.2(3)) for a subsequent taxation year, or"

(6) Subsection (3) is applicable to assessments relating to transactions entered into, payments made and reimbursements received after 1987.

(7) Subsections (4) and (5) are applicable to the 1988 and subsequent taxation years.

118.(1) All that portion of paragraph 156(1)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) on or before March 15, June 15, September 15 and December 15 in each taxation year, an amount equal to 1/4 of"

(2) Subsection (1) is applicable to the 1990 and subsequent taxation years.

119.(1) Subparagraph 157(1)(a)(i) of the said Act is repealed and the following substituted therefor:

(i) on or before the last day of each month in the year, an amount equal to 1/12 of the amount estimated by it to be the tax payable under this Part by it for the year computed without reference to section 123.1, paragraph 125.2(1)(a) and sections 127.2 and 127.3,"

(2) Subsection (1) is applicable to the 1989 and subsequent taxation years.

120.(1) All that portion of subsection 161(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

General

"161.(1) Where at any time after the day on or before which a taxpayer is required to pay the remainder of his tax payable under this Part for a taxation year,"

(2) Paragraph 161(4.1)(a) of the said Act is repealed and the following substituted therefor:

"(a) the tax payable under this Part by it for the year computed without reference to section 123.1, paragraph 125.2(1)(a) and sections 127.2 and 127.3,"

(3) Subparagraph 161(7)(a)(iv) of the said Act is repealed and the following substituted therefor:

"(iv) any amount deducted under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a loss for a subsequent taxation year,"

(4) Paragraph 161(7)(a) of the said Act is further amended by adding the word "or" at the end of subparagraph (v) thereof and by repealing subparagraphs (vi), (vi.1) and (vii) thereof and substituting therefor the following;

"(vi) any amount deducted under section 125.2 in respect of an unused Part VI tax credit (within the meaning assigned by subsection 125.2(3)) for a subsequent taxation year,"

(5) Subsection 161(11) of the said Act is repealed and the following substituted therefor:

Interest on penalties

"(11) Where a taxpayer is required to pay a penalty, the taxpayer shall pay the penalty to the Receiver General together with interest thereon at the prescribed rate computed

(a) in the case of a penalty payable by reason of section 162 or 163, from the day on or before which

(i) the taxpayer's return of income for a taxation year in respect of which the penalty is payable was required to be filed, or would have been required to be filed if tax under this Part were payable by him for the year, or

(ii) the information return, return, ownership certificate or other document in respect of which the penalty is payable was required to be made,

as the case may be, to the day of payment; and

(b) in the case of a penalty payable by reason of any other provision of this Act, from the day of mailing of the notice of original assessment of the penalty to the day of payment."

(6) Subsection (1) is applicable for the purpose of calculating interest with respect to tax payable for the 1989 and subsequent taxation years.

(7) Subsection (2) is applicable to the 1989 and subsequent taxation years.

(8) Subsections (3) and (4) are applicable to the 1988 and subsequent taxation years.

121.(1) Section 162 of the said Act is repealed and the following substituted therefor:

Penalties

"162.(1) Every person who has failed to file a return of income for a taxation year as and when required by subsection 150(1) is liable to a penalty of the greater of $25 and the aggregate of

(a) an amount equal to 5% of his tax for the year that was unpaid when the return was required to be filed, and

(b) the product obtained when 1% of his tax for the year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 12, from the date on which the return was required to be filed to the date on which the return was filed."

Repeated assessments of penalties

(2) Every person

(a) who has failed to file a return of income for a taxation year as and when required by subsection 150(1),

(b) upon whom a demand for a return for the year has been made under subsection 150(2), and

(c) who, at the time of failure, had been assessed for a penalty under subsection (1) or this subsection in respect of a return of income for any of the three preceding taxation years,

is liable to a penalty of the greater of $50 and the aggregate of

(d) an amount equal to 10% of his tax for the year that was unpaid when the return was required to be filed, and

(e) the product obtained when 2% of the tax for the year that was unpaid when the return was required to be filed is multiplied by the number of complete months, not exceeding 20, from the date on which the return was required to be filed to the date on which the return was filed.

Penalties

(3) Every person who has failed to file a return as required by subsection 150(3) is liable to a penalty of $10 for each day of default but not exceeding $50.

Idem

(4) Every person who

(a) has failed to complete an ownership certificate as required by section 234,

(b) has failed to deliver an ownership certificate in the manner prescribed at the time prescribed and at the place prescribed by regulations made under that section, or

(c) has cashed a coupon or warrant for which an ownership certificate has not been completed pursuant to that section,

is liable to a penalty of $50.

Completing information

(5) Every person who has failed to provide any information required on a prescribed form made pursuant to this Act or a regulation is, except where, in the case of an individual, the Minister has waived the penalty, liable to a penalty of $100.00 for every failure unless

(a) in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from the other person, or

(b) in the case of a failure to provide a Social Insurance Number on a return of income, the person had applied for the assignment of such Number and had not received it at the time the return was filed.

Failure to provide Social Insurance Number

(6) Every individual who has failed to provide on request his Social Insurance Number to a person required under this Act or a regulation to make an information return requiring the individual's Social Insurance Number is, except where the Minister has waived the penalty, liable to a penalty of $100 for every failure, unless

(a) an application by the individual for the assignment of a Social Insurance Number was made no later than 3 days following the request by the person, and

(b) such Number was provided to the person within 3 days of receiving it.

Failure to comply with regulation

(7) Every person

(a) who fails to make an information return, as and when required by a regulation, or

(b) who fails to comply with a duty or obligation imposed by a regulation, other than a failure described in subsection (5)

is liable in respect of each such failure to a penalty equal to the greater of $100 and the product obtained when $25 is multiplied by the number of days, not exceeding 100, during which the failure continues.

Failure to make partnership information return

(8) Where a penalty under subsection (7) is assessed in respect of a failure by a partnership to make an information return for a fiscal period and a demand for a return for the period has been made under section 233, the partnership is liable, in addition to that penalty, to a penalty equal to the greater of

(a) $200, and

(b) $100 per partner for each month or part of a month during which the failure continues,

unless the partnership has not been assessed a penalty under subsection (7) in respect of a return required to be filed for any of the three preceding fiscal periods.

Tax shelter identification number

(9) Every person who

(a) files false or incomplete information with the Minister in an application under subsection 237.1(3) for an identification number for a tax shelter, or

(b) sells, issues or arranges for the sale, issuance or acquisition of an interest in a tax shelter before the Minister has issued an identification number therefor, or

is liable to a penalty equal to the greater of

(c) $500, and

(d) 3% of the aggregate of all amounts each of which is the cost to each person who acquired an interest in the tax shelter before the correction or completion of the information filed with the Minister or the issuance of the identification number, as the case may be.

Penalty for failure to furnish information

(10) Every corporation that fails to file an information return required by section 233.1 is liable in respect of each such failure, in addition to a penalty under subsection (7), to a penalty equal to the aggregate of

(a) $1,000; and

(b) if the failure continues for more than 90 days after the day on which the Minister serves a demand on the corporation under section 233 for the return, $1,000 for each month or part of a month during which such failure continues after the expiration of the 90-day period.

Dishonoured cheques

(11) Every person who issues a cheque in payment of an amount under this Act that is not honoured when duly presented for payment is liable to a penalty of $10."

(2) Subsections 162(9) and (11) of the said Act, as enacted by subsection (1), shall come into force on a day to be fixed by order of the Governor in Council.

122. Subsections 163(1) and (2) of the said Act are repealed and the following substituted therefor:

Repeated failures

"163.(1) Every person who

(a) fails to report an amount of income in a return filed pursuant to section 150 for a taxation year, and

(b) had failed to report an amount of income in any such return for any of the three preceding taxation years,

is liable to a penalty equal to 10% of the amount of income that the person failed to report for that year, except where he is liable for a penalty under subsection (2) in respect of that amount.

False statements or omissions

(2) Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in a return, form, certificate, statement or answer (in this section referred to as a "return") filed or made in respect of a taxation year as required by or under this Act or a regulation, is liable to a penalty of the greater of $100 and 50% of the aggregate of

(a) the amount, if any, by which

(i) the amount, if any, by which

(A) the tax for the year that would be payable by him under this Act

exceeds

(B) the amount that would be deemed by subsection 120(2) to have been paid on account of his tax for the year

if his taxable income for the year were computed by adding to the taxable income reported by him in his return for the year that portion of his understatement of income for the year that is reasonably attributable to the false statement or omission and if his tax payable for the year were computed by subtracting from the deductions from the tax otherwise payable by him for the year such portion of any such deduction as may reasonably be attributable to the false statement or omission

exceeds

(ii) the amount, if any, by which

(A) the tax for the year that would have been payable by him under this Act

exceeds

(B) the amount that would have been deemed by subsection 120(2) to have been paid on account of his tax for the year

had his tax payable for the year been assessed on the basis of the information provided in his return for the year,

(b) the amount, if any, by which

(i) the amount that would be deemed by subsection 122.2(1) to be paid for the year by him or, where he is a supporting person of an eligible child of an individual for the year (within the meaning assigned by subsection 122.2(2)) and resided with the individual at the end of the year, by that individual, as the case may be, if that amount were calculated by reference to the information provided in the return filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by subsection 122.2(1) to be paid for the year by him or the individual referred to in subparagraph (i), as the case may be,

(c) the amount, if any, by which

(i) the amount that would be deemed by subsection 122.4(3) to be paid for the year by him or, where he is the spouse and a qualified relation of an eligible individual for the year (within the meanings assigned by subsection 122.4(1)), by that individual, as the case may be, if that amount were calculated by reference to the information provided in the prescribed form filed for the year pursuant to subsection 122.4(3)

exceeds

(ii) the amount that is deemed by section 122.4(3) to be paid for the year by him or the eligible individual of whom he is the spouse, as the case may be, and

(d) the amount, if any, by which

(i) the amount that would be deemed by subsection 127.1(1) to be paid for the year by him if that amount were calculated by reference to the information provided in the return or form filed for the year pursuant to that subsection

exceeds

(ii) the amount that is deemed by subsection 127.1(1) to be paid for the year by him."

123.(1) The said Act is further amended by adding thereto, immediately after section 163 thereof, the following section:

Penalty for late or deficient instalments

"163.1 Every person who fails to pay all or any part of an instalment of tax for a taxation year on or before the day on or before which the instalment is required by this Part to be paid is liable to a penalty equal to 50% of the amount, if any, by which

(a) the interest payable by him under section 161 in respect of all instalments for the year

exceeds

(b) $1,000."

(2) Subsection (1) is applicable with respect to instalments of tax payable for the 1989 and subsequent taxation years.

124.(1) Paragraphs 164(1)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) may,

(i) before mailing the notice of assessment for the year, where the taxpayer is a qualifying corporation (within the meaning assigned by subsection 127.1(1)) and claims in his return of income under this Part for the year to have paid an amount on account of his tax under this Part for the year by reason of subsection 127.1(1) in respect of his refundable investment tax credit for the year (within the meaning assigned by subsection 127.1(1)), refund without application therefor, all or any part of any amount claimed in the return as an overpayment for the year, not exceeding the amount by which the aggregate determined under subparagraph (a)(vi) of the definition "refundable investment tax credit" in subsection 127.1(2) in respect of the taxpayer for the year exceeds the aggregate determined under subparagraph (a)(vii) of that definition in respect of the taxpayer for the year, and

(ii) on or after mailing the notice of assessment for the year, refund without application therefor, any overpayment for the year, to the extent that such overpayment was not refunded pursuant to subparagraph (i); and

(b) shall, with all due dispatch, make such a refund referred to in subparagraph (a)(ii) after mailing the notice of assessment if application therefor has been made in writing by the taxpayer within

(i) the 6 year period referred to in paragraph 152(4)(b), where that paragraph applies, and

(ii) the 3 year period referred to in paragraph 152(4)(c), in any other case."

(2) Paragraph 164(5)(d) of the said Act is repealed and the following substituted therefor:

> "(d) the deduction of an amount under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a loss for a subsequent taxation year,"

(3) Paragraphs 164(5)(g) and (h) of the said Act are repealed and the following substituted therefor:

> "(g) the deduction of an amount under section 125.2 in respect of an unused Part VI tax credit (within the meaning assigned by subsection 125.2(3)) for a subsequent taxation year, or"

(4) Subsection 164(5) of the said Act is further amended by striking out the word "or" at the end of paragraph (h.1) thereof and by repealing paragraph (h.2) thereof.

(5) Paragraph 164(5.1)(d) of the said Act is repealed and the following substituted therefor:

> "(d) the deduction of an amount under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a subsequent taxation year,"

(6) Paragraphs 164(5.1)(g) and (h) of the said Act are repealed and the following substituted therefor:

> "(g) the deduction of an amount under section 125.2 in respect of an unused Part VI tax credit (within the meaning assigned by subsection 125.2(3)) for a subsequent taxation year, or"

(7) Subsection 164(5.1) of the said Act is further amended by striking out the word "or" at the end of paragraph (h.1) thereof and by repealing paragraph (h.2) thereof.

(8) Subsections (2) to (7) are applicable to the 1988 and subsequent taxation years.

125.(1) Subsections 167(1) and (2) of the said Act are repealed and the following substituted therefor:

Application to Tax Court of Canada for time extension

"167.(1) Where no objection to an assessment under section 165, appeal to the Tax Court of Canada under section 169 or request under subsection 245(6) has been made or instituted within the time limited by that provision for doing so, an application may be made to the Tax Court of Canada for an order extending the time within which a notice of objection may be served, an appeal instituted or a request made, and the Court may, if in its opinion the circumstances of the case are such that it would be just and equitable to do so, make an order extending the time of objecting, appealing or making a request and may impose such terms as it deems just.

Idem

(2) The application referred to in subsection (1) shall set forth the reasons why it was not possible to serve the notice of objection, institute the appeal to the Court or make the request under subsection 245(6), as the case may be, within the time otherwise limited by this Act for so doing."

(2) Subsection 167(5) of the said Act is repealed and the following substituted therefor:

When order to be made

"(5) No order shall be made under subsection (1) or (4)

(a) unless the application to extend the time for objecting, appealing or making the request, as the case may be, is made within one year after the expiration of the time otherwise limited by this Act for objecting to or appealing from the assessment in respect of which the application is made or for making the request under subsection 245(6), as the case may be;

(b) if the Tax Court of Canada or Federal Court has previously made an order extending the time for objecting to or appealing from the assessment or making the request, as the case may be, and

(c) unless the Tax Court of Canada or Federal Court is satisfied that

(i) but for the circumstances mentioned in subsection (1) or (4), as the case may be, an objection, appeal or request would have been made or instituted within the time otherwise limited by this Act for doing so,

(ii) the application was brought as soon as circumstances permitted it to be brought, and

(iii) there are reasonable grounds for objecting to or appealing from the assessment or making the request."

126.(1) Paragraph 172(3)(a.1) of the said Act is repealed and the following substituted therefor:

"(a.1) designates or refuses to designate a registered charity pursuant to subsection 110(8.1) or (8.2) or 149.1(6.3),"

(2) Paragraph 172(4)(a.1) of the said Act is repealed and the following substituted therefor:

"(a.1) to designate a registered charity pursuant to an application under subsection 110(8.2) or 149.1(6.3),"

(3) Subsections (1) and (2) are applicable to the 1988 and subsequent taxation years.

127.(1) Section 180.1 of the said Act is amended by adding thereto, immediately after subsection (1.1) thereof, the following subsections:

Deduction from tax

"(1.2) There may be deducted from the tax otherwise payable under this Part for a taxation year by an individual an amount not exceeding the lesser of

(a) 3/4 of the amount that would be his tax otherwise payable under this Part for the year if he deducted the amount, if any, allowed to be deducted under subsection (1.1) for the year; and

(b) the amount, if any, by which the amount determined under paragraph 127(5)(b) in respect of the individual for the year exceeds the amount, if any, deducted by him under subsection 127(5) for the year.

Idem

(1.3) For the purposes of this Act, other than for the purpose of determining the amount under paragraph (1.2)(b) for the year, the amount deducted under subsection (1.2) for a taxation year shall be deemed to be an amount deducted under subsection 127(5) for the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

128. Section 184 of the said Act is amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

Reduction of excess

"(2.1) Notwithstanding subsection (2), where a corporation has elected in accordance with subsection 83(2) in respect of the full amount of a dividend that became payable by it at a particular time in its 1988 taxation year and before June 18, 1987, the amount of the excess referred to in subsection (2) in respect of the dividend shall be deemed, for the purposes of subsection (2), to be the amount of the excess that would have been determined under subsection (2) in respect of the dividend if the corporation's taxation year had ended on December 31, 1987."

129.(1) All that portion of subsection 186(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Tax on certain taxable dividends

"186.(1) Every corporation (in this section referred to as the "particular corporation") that was, at any time in a taxation year, a corporation (other than a private corporation) resident in Canada and controlled directly or indirectly in any manner whatever, whether by reason of a beneficial interest in one or more trusts or otherwise, by or for the benefit of an individual (other than a trust) or a related group of individuals (other than trusts) (in this Part referred to as a "subject corporation") or a private corporation shall, on or before the last day of the third month after the end of the year, pay a tax under this Part for the year equal to 1/4 of the amount, if any, by which the aggregate of"

(2) Subparagraph 186(1)(b)(i) of the said Act is repealed and the following substituted therefor:

"(i) 4 times the dividend refund of the payer corporation for its taxation year in which it paid the dividend"

(3) All that portion of subsection 186(5) of the said Act following paragraph (a.1) thereof is repealed and the following substituted therefor:

"exceeds the total of

(b) the aggregate of the corporation's dividend refunds for taxation years ending after it last became a subject corporation and before the year; and

(c) the amount, if any, of the corporation's reduction at December 31, 1987 of refundable dividend tax on hand (within the meaning assigned by subsection 129(3.5))."

(4) Subsections (1) and (2) are applicable with respect to taxable dividends received in the 1988 and subsequent taxation years, except that in the application of subsection 186(1) of the said Act, as amended by subsections (1) and (2), to a taxation year of a corporation commencing before 1988 and ending after 1987, the following rules apply:

(a) in their application to amounts described in paragraphs 186(1)(a) and (b) of the said Act that are received by the corporation in the year and before 1988, the reference in subsection 186(1) of the said Act to "1/4" and the reference in subparagraph 186(1)(b)(i) thereof to "4" shall be read as references to "1/3" and "3" respectively; and

(b) amounts deducted for the year by the corporation under paragraph 186(1)(c) or (d) of the said Act shall

(i) be deemed to have been deducted in respect of amounts described in paragraphs 186(1)(a) and (b) thereof that were received by the corporation in the year and before 1988, and

(ii) to the extent that the amounts so deducted exceed the amounts referred to in subparagraph (i), be deemed to have been deducted in respect of amounts described in paragraphs 186(1)(a) and (b) of the said Act that were received by the corporation in the year and after 1987.

(5) Subsection (3) is applicable to the 1988 and subsequent taxation years.

130.(1) Paragraph 188(1)(b) of the said Act is repealed and the following substituted therefor:

> "(b) the aggregate of all amounts each of which is an amount of a gift for which it issued a receipt described in paragraph 110.1(1)(a) or subsection 118.1(2) after the day referred to in paragraph (a) or an amount received after that date from a registered charity,"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years, except that in its application to the 1988 taxation year the reference to "paragraph 110.1(1)(a)" in paragraph 188(1)(b) of the said Act, as enacted by subsection (1), shall be read as a reference to "paragraph 110(1)(a) or 110.1(1)(a)".

131.(1) Subsection 190.1(2) of the said Act is repealed and the following substituted therefor:

Tax calculated

"(2) The tax payable under this Part by a corporation for a taxation year is the amount determined by the formula

$$\underline{.0125} \times A \times \frac{B}{365}$$

where

A is its taxable capital for the year determined under section 190.11; and

B is the number of days in the year on which it is a financial institution."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

132.(1) Section 190.14 of the said Act is repealed and the following substituted therefor:

Canadian assets of corporation (E)

"190.14 The Canadian assets of a corporation for a taxation year is the amount determined by the formula

$$I - (D + P)$$

where

I is the total of the amounts at which the assets of the corporation (which are required or, if the corporation were a bank to which the Bank Act applied, would be required to be reported under subsection 223(1) and Schedule Q of the Bank Act if Schedule Q thereof were prepared on a non-consolidated basis) would be shown on its balance sheet at the end of its immediately preceding taxation year if its balance sheet were prepared on a non-consolidated basis;

D is the total of the corporation's investments for the year in financial institutions related to it determined under section 190.13; and

P is the total of amounts outstanding at the end of the immediately preceding taxation year on account of deposits made by the corporation that are described in paragraph (c) of the definition "eligible loan" in subsection 33.1(1)

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

133.(1) Subsections 190.17(1) to (3) of the said Act are repealed and the following substituted therefor:

Capital deduction (H)

"190.17(1) Subject to subsection (4), the capital deduction of a corporation for a taxation year during which it was at any time a financial institution is the aggregate of $200,000,000 and the lesser of

(a) $20,000,000, and

(b) 1/5 of the amount, if any, by which the amount that would be the corporation's taxable capital for the year if its capital deduction for the year were nil exceeds $200,000,000,

unless the corporation was related to another financial institution at the end of the immediately preceding taxation year.

Capital deduction (H) of related group

(2) A corporation that is a financial institution at any time during a taxation year and that was related to another financial institution at the end of the immediately preceding taxation year may file with the Minister in prescribed form an agreement on behalf of the related group of which the corporation is a member under which an amount that does not exceed the aggregate of $200,000,000 and the lesser of

(a) $20,000,000, and

(b) 1/5 of the amount, if any, by which the aggregate of all amounts, each of which is the amount that would be the taxable capital of a financial institution that is a member of the related group if its capital deduction for the year were nil, exceeds $200,000,000

is allocated among the members of the related group for the taxation year.

Allocation by Minister

(3) The Minister may request a corporation that is a financial institution at any time during a taxation year and that was related to any other financial institution at the end of the immediately preceding taxation year to file with him an agreement referred to in subsection (2) and if the corporation does not file such an agreement within 30 days after receiving the request, the Minister shall allocate an amount among the members of the related group of which the corporation is a member for the year not exceeding the aggregate of $200,000,000 and the lesser of

(a) $20,000,000, and

(b) 1/5 of the amount, if any, by which the aggregate of all amounts, each of which is the amount that would be the taxable capital of a financial institution that is a member of the related group if its capital deduction for the year were nil, exceeds $200,000,000."

(2) Subject to subsection (3), subsection (1) is applicable to the 1988 and subsequent taxation years.

(3) There shall be added in determining a corporation's capital deduction under section 190.17 of the said Act, as amended by subsection (1), for a taxation year commencing before 1988 and ending after 1987 that proportion of the amount, if any, by which

(a) the amount that would, but for this subsection, be the taxable capital of the corporation for the year

exceeds

(b) 80% of the amount, if any, by which

(i) the amount that would be the taxable capital of the corporation for the year if its capital deduction for the year were nil

exceeds

(ii) where the corporation was not related to another financial institution at the end of the immediately preceding taxation year, $300,000,000, and

(iii) in any other case, that proportion of $300,000,000 that

(A) the amount that would, but for this subsection, be the capital deduction of the corporation for the year

is of

(B) the aggregate of all amounts each of which is the amount that would, but for this subsection, be the capital deduction for the year of the corporation or another financial institution to which the corporation was related at the end of the immediately preceding taxation year

that

(c) the number of days in the year that are before 1988

is of

(d) the number of days in the year.

134.(1) Section 190.21 of the said Act is repealed and the following substituted therefor:

Instalments

"190.21 A corporation liable to pay tax under this Part for a taxation year shall pay to the Receiver General on or before the last day of each three month period, if any, in the year an instalment determined by the formula

$$\left(\frac{3}{L} \times M\right) - N$$

where

L is the number of months in the taxation year;

M is the tax payable under this Part by the corporation for the year; and

N is the aggregate of all amounts each of which is the amount that would by reason of subsection 157(1) be required to be paid by the corporation as an instalment of tax payable under Part I for the year on or before the last day of a month in the three month period, if such instalment were computed by reference to the method described in subsection 161(4.1) that is applicable in respect of the corporation for the year."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years, except that the amount determined under "N" in section 190.21 of the said Act, as enacted by subsection (1), in respect of a corporation for the 1988 taxation year shall be deemed to be nil.

135.(1) The said Act is further amended by adding thereto, immediately after Part XII.2 thereof, the following Part:

"Part XII.3
Tax on Investment Income of Life Insurers

Definitions

211. For the purposes of this Part:

"Canada security" etc.
«avance sur police»

"Canada security," "gross investment revenue", "non-segregated property", "participating life insurance policy", "policy loan" and "segregated fund" have the meanings assigned by subsection 138(12);

"guaranteed interest"
«intérêt garanti»

"guaranteed interest" in respect of a life insurance policy of a life insurer for a taxation year means the amount determined in accordance with prescribed rules in respect of the policy for the year, except that the guaranteed interest in respect of a policy for a particular year shall be deemed to be nil where the maximum amount of any benefit that would be payable under the policy if the insured died at any time in the particular year exceeds the maximum amount of such benefit if the insured had died on March 2, 1988, adjusted for such of the following transactions or events that occurred after that date in respect of the policy:

(a) a change arising from the provision of an additional benefit on death under a participating life insurance policy as, on account or in lieu of payment of, or in satisfaction of policy dividends, where such change is made pursuant to the terms of the policy as they existed on March 2, 1988,

(b) a change as a result of interest, mortality or expense considerations or an increase in the Consumer Price Index (as published by Statistics Canada under the authority of the Statistics Act) where such change is made by the insurer on a class basis pursuant to the terms of the policy as they existed on March 2, 1988, or

(c) an increase that is granted by the insurer on a class basis without consideration and not pursuant to the terms of the policy,

and, for the purposes of this definition, a life insurance policy issued after March 2, 1988 as a result of the exercise of a renewal privilege contained in a life insurance policy shall be deemed to be a new policy unless the premiums payable under such policy were fixed and determined on or before that day;

"life insurance policy"
«police d'assurance-vie»

"life insurance policy" and "life insurance policy in Canada" do not include any part of the policy in respect of which the policyholder is deemed by paragraph 138.1(1)(e) to have an interest in a related segregated fund trust;

"property used in the year in, or held in the year in the course of"
«bien utilisé ou détenu dans l'année dans le cadre de»

"property used in the year in, or held in the year in the course of" carrying on a life insurance business in Canada, in the case of an insurer (other than a resident of Canada that does not carry on a life insurance business) that carried in an insurance business in Canada and in a country other than Canada, has the meaning assigned by subsection 138(12);

"registered life insurance policy"
«police d'assurance-vie agréée»

"registered life insurance policy" means a life insurance policy (other than an annuity contract) issued or effected as a registered retirement savings plan or pursuant to such a plan, a deferred profit sharing plan or a registered pension fund or plan.

Tax payable

211.1(1) Every life insurer shall pay a tax under this Part for each taxation year equal to 15% of its taxable Canadian life investment income for the year.

Taxable Canadian life investment income

(2) For the purposes of this Part, the taxable Canadian life investment income of a life insurer for a taxation year is the amount, if any, by which its Canadian life investment income for the year exceeds the aggregate of its Canadian life investment losses for such of the 7 taxation years immediately preceding the year that commence after June 17, 1987 and end after 1987, to the extent that such losses have not been deducted in computing its taxable Canadian life investment income for any preceding taxation year.

Canadian life investment income

(3) For the purposes of this Part, the Canadian life investment income or loss, as the case may be, of a life insurer for a taxation year is the positive or negative amount, respectively, determined by the formula

$$A - B - C - D + E - F - G$$

where

A is the positive or negative amount, as the case may be, determined by aggregating the following amounts in respect of the insurer for the year:

(a) the aggregate of all amounts included under subsection 138(9) in computing the insurer's income for the year from carrying on a life insurance business in Canada,

(b) where subsection 138(9) does not apply to the insurer, its gross investment revenue for the year from such of its non-segregated property as was property used in the year in, or held in the year in the course of, carrying on a life insurance business in Canada,

(c) the amount included under paragraph 138(4)(b) in computing the insurer's income for the year,

(d) the amount included under paragraph 138(4)(c) in computing the insurer's income for the year,

(e) the aggregate of all amounts that accrued to, or became receivable or were received by, the insurer in the year as, on account of or in lieu of payment of, interest in respect of policy loans made under the terms of its life insurance policies in Canada, to the extent not included in computing its Canadian life investment income for a preceding taxation year,

(f) the aggregate of all gains made by the insurer in the year from dispositions of such of its non-segregated property (other than property that is a Canada security or capital property) as was property used in the year in, or held in the year in the course of, carrying on a life insurance business in Canada, and

(g) the amount, if any, by which

(i) the aggregate of all taxable capital gains of the insurer for the year from dispositions of such of its non-segregated property as was property used in the year in, or held in the year in the course of, carrying on a life insurance business in Canada

exceeds

(ii) the aggregate of all allowable capital losses of the insurer for the year and all preceding taxation years commencing after June 17, 1987 and ending after 1987 from dispositions of such of its non-segregated property as was property used in the year in, or held in the year in the course of, carrying on a life insurance business in Canada to the extent that such losses have not reduced an amount determined under this paragraph in determining the Canadian life investment income for a preceding taxation year,

and deducting from such aggregate the total of the following amounts in respect of the insurer for the year

(h) the amount deductible under paragraph 138(3)(b) in computing the insurer's income for the year,

(i) the amount deductible under paragraph 138(3)(d) in computing the insurer's income for the year,

(j) the aggregate of all losses sustained by the insurer in the year from dispositions of such of its non-segregated property (other than property that is a Canada security or capital property) as was property used in the year in, or held in the year in the course of, carrying on a life insurance business in Canada,

(k) the aggregate of all expenses deducted in computing the insurer's income under Part I for the year to the extent that such expenses were incurred for the purposes of managing its non-segregated property and may reasonably be regarded as having been incurred for the purposes of earning any amount included under paragraphs (a) to (f) for the year,

(l) the aggregate of all amounts that became payable by the insurer in respect of the year as, on account of or in lieu of payment of, interest on amounts on deposit with the insurer in accordance with the terms of its life insurance policies in Canada, and

(m) the aggregate of amounts (other than amounts included under paragraph (k) or (l)) deducted in computing the insurer's income for the year under paragraphs 20(1)(a), (c) (d) and (p), to the extent that each such amount may reasorably be regarded as relating to any amount included under paragraphs (a) to (f) for the year;

B is the aggregate of all amounts deducted in computing the insurer's income for the year under Part I from carrying on a life insurance business in Canada, except to the extent that any such amount

(a) is included in an amount determined in respect of the insurer for the year under any of paragraphs (j) to (m) of the description of A under this subsection,

(b) was paid or payable by the insurer under a life insurance policy,

(c) is deductible under subsection 20(26) or 138(3) or under paragraph 20(1)(l) or (1.1) in computing its income from carrying on a life insurance business in Canada, or

(d) may reasonably be considered to relate to segregated funds of the insurer;

C is the positive or negative amount, as the case may be, that would be determined to be the insurer's income or loss, respectively, for the year under Part I from carrying on a life insurance business in Canada, if

(a) no amount were included in such determination in respect of segregated funds of the insurer,

(b) no amount were included in such determination under section 12.3, subsection 20(26) or paragraph 12(1)(d) or (d.1) or 20(1)(1) or (1.1), or under paragraph 138(4)(a) in respect of the amount deducted under paragraph 138(3)(c) in computing its income for the immediately preceding taxation year,

(c) the amount, if any, determined under paragraph (g) of the description of A under this subsection in respect of the insurer for the year were included in such determination, and

(d) the maximum amounts deductible under subparagraphs 138(3)(a)(i), (ii) and (iv) in computing the insurer's income for the year were deducted in such determination and on the assumption that the maximum amounts so deductible in computing its income for the immediately preceding year had been deducted;

D is the positive or negative amount, as the case may be, determined in accordance with prescribed rules, in respect of the insurer's investment income for the year attributable to registered life insurance policies, group term life insurance policies and annuity contracts;

E is the positive or negative amount, as the case may be, determined by aggregating the term insurance component and the amortization adjustment amount, determined in accordance with prescribed rules, in respect of the amounts determined under the description of B and C under this subsection in respect of the insurer for the year attributable to the life insurance policies (other than registered life insurance policies, group term life insurance policies and annuity contracts) of the insurer;

F is the aggregate of all amounts of guaranteed interest for the year in respect of life insurance policies in Canada of the insurer (other than policies that were at any time in the year registered life insurance policies, group term life insurance policies or annuity contracts); and

G is the aggregate of all amounts in respect of the year that are included in computing the income of policyholders in respect of life insurance policies in Canada (other than annuity contracts) of the insurer under section 12.2, paragraph 56(1)(j) or subparagraph 115(1)(a)(vi), except such part thereof as is prescribed to be in respect of income accrued before 1988 and in respect of guaranteed interest which has been earned after 1987.

Return

211.2 Every life insurer shall file with the Minister, not later than the day on or before which it is required by section 150 to file its return of income for a taxation year under Part I, a return of taxable Canadian life investment income for that year in prescribed form containing an estimate of the tax payable by it under this Part for the year.

Instalments

211.3 Every life insurer shall pay to the Receiver General on or before the last day of each three month period, if any, in a taxation year an instalment determined by the formula

$$\frac{A}{B} \times C$$

where

A is the number of months in the year within the three month period;

B is the number of months in the year; and

C is the lesser of

(a) the tax payable under this Part by the insurer for the year, and

(b) the tax payable under this Part by the insurer for the immediately preceding taxation year.

Payment of remainder of tax

211.4 Every life insurer shall pay on or before the last day of the second month ending after the end of a taxation year, the remainder, if any, of the tax payable under this Part by the insurer for the year.

Interest

211.5 Where a life insurer has failed to pay all or any instalment of tax under this Part on or before the day on or before which the tax or instalment, as the case may be, was required to be paid, it shall pay to the Receiver General interest at the rate prescribed for the purposes of section 161 on the amount that it failed to pay computed from the day on or before which the amount was required to be paid to the day of payment.

Provisions applicable to Part

211.6 Sections 152, 158 and 159, subsection 161(1), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require."

(2) Subsection (1) is applicable with respect to taxation years commencing after June 17, 1987 that end after 1987.

136.(1) Subsection 212(12) of the said Act is repealed and the following substituted therefor:

Deemed payments to spouse, etc.

"(12) Where by virtue of subsection 56(4) or (4.1) or sections 74 to 75 there is included in computing a taxpayer's income under Part I for a taxation year an amount paid or credited to a non-resident person in the year, no tax is payable under this section on that amount."

(2) Subsection (1) is applicable to the 1989 and subsequent taxation years.

137.(1) Subsection 214(2) of the said Act is repealed and the following substituted therefor:

Income and capital combined

"(2) Where subsection 16(1) would, if Part I were applicable, result in a part of an amount being included in computing the income of a non-resident, that part of the amount shall, for the purposes of this Part, be deemed to have been paid or credited to the non-resident."

(2) Paragraph 214(3)(h) of the said Act is repealed.

(3) Subsection (1) is applicable with respect to amounts paid or payable after June, 1988.

(4) Subsection (2) is applicable with respect to transactions entered into on or after the day on which this Act is assented to other than transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the said Act, commencing before the day on which this Act is assented to and completed before 1989.

138.(1) Subsection 216(1) of the said Act is amended by striking out the word "and" at the end of paragraph (b) thereof and by repealing paragraph (c) thereof and substituting therefor the following:

> "(c) he were entitled to no deductions from income for the purpose of computing his taxable income; and
>
> (d) he were entitled to no deductions under sections 118 to 118.9 in computing his tax payable under Part I for the year."

(2) Subsection 216(5) of the said Act is amended by striking out the word "and" at the end of paragraph (b) thereof, and by repealing paragraph (c) thereof and substituting therefor the following:

> "(c) he were entitled to no deductions from income for the purpose of computing his taxable income; and
>
> (d) he were entitled to no deductions under sections 118 to 118.9 in computing his tax payable under Part I for the year."

(3) Subsections (1) and (2) are applicable to the 1988 and subsequent taxation years.

139.(1) Section 217 of the said Act is amended by striking out the word "and" at the end of paragraph (a) thereof, by adding the word "and" at the end of subparagraph (b)(i) thereof and by repealing all that portion thereof following subparagraph (b)(i) thereof and substituting therefor the following:

> "(ii) all that portion of subsection 115(1) following paragraph (c) thereof shall be read as follows:
>
> > "minus the aggregate of such of the deductions from income permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable";
>
> and
>
> (c) notwithstanding section 118.13, where the non-resident person is an individual, that section shall be read as follows.

"Sections 118 to 118.9 do not apply for the purpose of computing the tax payable under this Part for a taxation year by a non-resident individual except that for the purpose of computing his tax payable under this Part for the year there may be deducted

(a) such of the amounts that would have been deductible under any of sections 118.1 and 118.2, subsections 118.3(2) and (3) and sections 118.5 to 118.9 for the purpose of computing his tax payable under this Part for the year had the individual been resident in Canada throughout the year, as may reasonably be considered wholly applicable; and

(b) the amounts that would have been deductible under section 118 and subsection 118.3(1) for the purpose of computing his tax payable under this Part for the year had he been resident in Canada throughout the year.""

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

140.(1) Subparagraph 219(4)(a)(i.1) of the said Act is repealed and the following substituted therefor:

"(i.1) where, in any taxation year commencing before the end of the year, the insurer transferred to a taxable Canadian corporation with which it did not deal at arm's length any property used by it in the year in, or held by it in the year in the course of (within the meaning assigned by paragraph 138(12)(1)), carrying on an insurance business in Canada, and

(A) the property was transferred before December 16, 1987 and subsection 138(11.5) applied in respect of the transfer, or

(B) the property was transferred before November 22, 1985 and subsection 85(1) applied in respect of the transfer,

the amount, if any, by which

(C) the aggregate of the fair market value, at the time of the transfer, of all such property

exceeds

(D) the aggregate of the insurer's proceeds of disposition of all such property,"

(2) Subsections 219(5.1), (5.2) and (5.3) of the said Act are repealed and the following substituted therefor:

Additional tax on insurer

"(5.1) Where, in a particular taxation year, a non-resident insurer has ceased to carry on all or substantially all of an insurance business in Canada, it shall, on or before the day on or before which it is required to file a return of income under Part I for the particular year, pay a tax for the year equal to 25% of the amount, if any, by which

(a) that portion of the amount determined under paragraph (4)(a) for the particular year in respect of the non-resident insurer that can reasonably be attributed to the business including the disposition by it of property that was, at the time of the disposition, used by it in the year in, or held by it in the year in the course of (within the meaning assigned by paragraph 138(12)(1)), carrying on the business

exceeds

(b) the amount in respect of which the non-resident insurer and a qualified related corporation of the insurer have jointly elected in accordance with subsection (5.2) for the particular year in respect of the business.

Election by non-resident insurer

(5.2) Where,

(a) a non-resident insurer has ceased to carry on all or substantially all of an insurance business in Canada in a taxation year, and

(b) the insurer has transferred the business to a qualified related corporation of the insurer and the insurer and the corporation have elected to have subsection 138(11.5) apply in respect of the transfer,

the insurer and the corporation may elect, in prescribed manner and within prescribed time, to reduce the amount in respect of which the insurer would otherwise be liable to pay tax under subsection (5.1) by an amount not exceeding the lesser of

(c) the amount determined under paragraph (5.1)(a) in respect of the insurer in respect of the business; and

(d) the aggregate of the paid-up capital of the shares of the capital stock of the corporation received by the insurer as consideration for the transfer of the business and any contributed surplus arising on the issue of those shares.

Deemed payment of dividend

(5.3) Where, at any time in a taxation year,

(a) a qualified related corporation of a non-resident insurer ceases to be a qualified related corporation of that insurer, or

(b) the tax deferred account of a qualified related corporation of a non-resident insurer exceeds the aggregate of the paid-up capital in respect of all the shares of the capital stock of the corporation and its contributed surplus,

the corporation shall be deemed to have paid, immediately before that time, a dividend to the insurer in an amount equal to

(c) where paragraph (a) is applicable, the balance of the tax deferred account of the corporation at that time; or

(d) where paragraph (b) is applicable, the amount of the excess referred to in that paragraph at that time."

(3) Subsection 219(8) of the said Act is repealed and the following substituted therefor:

Meaning of "qualified related corporation"

"(8) For the purposes of this Part, a corporation is a "qualified related corporation" of a non-resident insurer if it is resident in Canada and all of the issued and outstanding shares (other than directors' qualifying shares) of the capital stock of the corporation (having full voting rights under all circumstances) are owned by

(a) the insurer,

(b) a subsidiary wholly-owned corporation of the insurer,

(c) a subsidiary wholly-owned corporation of a corporation of which the insurer is also a subsidiary wholly-owned corporation, or

(d) any combination of corporations each of which is a corporation described in paragraph (a), (b) or (c),

and, for the purpose of this subsection, a subsidiary wholly-owned corporation of a particular corporation includes any subsidiary wholly-owned corporation of a corporation which is a subsidiary wholly-owned corporation of the particular corporation."

(4) Subsection (1) is applicable to taxation years commencing after June 17, 1987 that end after 1987, except that, where a business was transferred by a non-resident insurer after December 15, 1987 and before 1988, paragraph 219(4)(a)(i.1) of the said Act, as enacted by subsection (1), is applicable to taxation years of the insurer that end after December 15, 1987.

(5) Subsections 219(5.1) and (5.2) of the said Act, as enacted by subsection (2), are applicable to cessations of a business after December 15, 1987.

(6) Subsection 219(5.3) of the said Act, as enacted by subsection (2), and subsection (3) are applicable after December 15, 1987.

141. Paragraphs 221(1)(d.1) and (e) of the said Act are repealed and the following substituted therefor:

"(d.1) requiring any person to provide any information including his name, address and Social Insurance Number to any class of persons required to make an information return containing such information,

(e) requiring a person who is, by a regulation made under paragraph (d), required to make an information return to supply a copy of the information return or of a prescribed part thereof to the person to whom the information return or part thereof relates,"

142.(1) Subsections 227(8) and (8.1) of the said Act are repealed and the following substituted therefor:

Penalty

"(8) Every person who in a calendar year has failed to deduct or withhold any amount as required by subsection 153(1) or section 215 is liable to a penalty of

(a) 10% of the amount that should have been deducted or withheld; or

(b) where the person had at the time of the failure been assessed a penalty under this subsection in respect of an amount that should have been deducted or withheld during the year, 20% of the amount that should have been deducted or withheld.

Joint and several liability

(8.1) Where a particular person has failed to deduct or withhold an amount as required under subsection 153(1) or section 215 in respect of an amount that has been paid to a non-resident person, the non-resident person is jointly and severally liable with the particular person to pay any interest payable by the particular person pursuant to subsection (8.3) in respect thereof."

(2) Section 227 of the said Act is further amended by adding thereto, immediately after subsection (8.2) thereof, the following subsections:

Interest on amounts not deducted or withheld

"(8.3) Where a person has failed to deduct or withhold any amount as required by subsection 153(1) or section 215, he shall pay to the Receiver General interest on the amount at the prescribed rate computed

(a) in the case of an amount required by subsection 153(1) to be deducted or withheld from a payment to another person, from the fifteenth day of the month immediately following the month in which the amount was required to be deducted or withheld, or from such earlier day as may be prescribed for the purposes of subsection 153(1), to

(i) where that other person is not resident in Canada, the day of payment of the amount to the Receiver General, and

(ii) where that other person is resident in Canada, the earlier of the day of payment of the amount to the Receiver General and April 30 of the year immediately following the year in which the amount was required to be deducted or withheld; and

(b) in the case of an amount required by section 215 to be deducted or withheld, from the day on which the amount was required to be deducted or withheld to the day of payment of the amount to the Receiver General.

Liability to pay amount not deducted or withheld

(8.4) A person who has failed to deduct or withhold any amount as required under subsection 153(1) in respect of an amount paid to another person who is not resident in Canada, or who is resident in Canada only by reason of paragraph 250(1)(a), is liable to pay as tax under this Part on behalf of the other person the whole of the amount that should have been deducted or withheld, and is entitled to deduct or withhold from any amount paid or credited by him to the other person or otherwise recover from the other person any amount paid by him as tax under this Part on behalf of the other person."

(3) Subsection 227(9) of the said Act is repealed and the following substituted therefor:

Penalty

"(9) Every person who in a calendar year has failed to remit or pay as and when required by this Act or a regulation an amount deducted or withheld as required by this Act or a regulation or an amount of tax that he is, by section 116 or by a regulation made under subsection 215(4), required to pay is liable to a penalty of

(a) 10% of that amount; or

(b) 20% of that amount, where the person had at the time of the failure been assessed a penalty under this subsection in respect of an amount that should have been remitted or paid during the year."

(4) Section 227 of the said Act is further amended by adding thereto, immediately after subsection (9.1) thereof, the following subsections:

Interest on amounts deducted or withheld but not remitted

"(9.2) Where a person has failed to remit as and when required by this Act or a regulation an amount deducted or withheld as required by this Act or a regulation, he shall pay to the Receiver General interest on the amount at the prescribed rate computed from the day on which he was so required to remit the amount to the day of remittance of the amount to the Receiver General.

Interest on certain tax not paid

(9.3) Where a person has failed to pay an amount of tax that he is, by section 116 or a regulation made under subsection 215(4), required to pay, as and when he was so required to pay it, he shall pay to the Receiver General interest on the amount at the prescribed rate computed from the day on or before which the amount was required to be paid to the day of payment of the amount to the Receiver General."

(5) Paragraph 227(10)(a) of the said Act is repealed and the following substituted therefor:

"(a) any person for any amount payable by that person under subsection (8), (8.1), (8.2), (8.3), (8.4) or 224(4) or (4.1) or section 227.1, and"

(6) Paragraph 227(10.1)(a) of the said Act is repealed and the following substituted therefor:

"(a) any person for any amount payable by that person under subsection (9), (9.2) or (9.3), and"

143. All that portion of section 231 of the said Act preceding the definition "authorized person" thereof is repealed and the following substituted therefor:

Interpretation

"231. In sections 231.1 to 231.6,"

144. Subsection 231.2(7) of the said Act is repealed.

145. The said Act is further amended by adding thereto, immediately after section 231.5 thereof, the following section:

"Foreign-based information or document" defined

"231.6(1) For the purposes of this section, "foreign-based information or document" means any information or document which is available or located outside Canada and which may be relevant to the administration or enforcement of this Act.

Requirement to provide foreign-based information

(2) Notwithstanding any other provision of this Act, the Minister may, by notice served personally or by registered or certified mail, require that a person resident in Canada or a non-resident person carrying on business in Canada provide any foreign-based information or document.

Notice

(3) The notice referred to in subsection (2) shall set forth

(a) a reasonable period of time of not less than 90 days for the production of the information or document;

(b) a description of the information or document being sought; and

(c) the consequences under subsection (8) to the person of the failure to provide all information or documents being sought within the period of time set out in the notice.

Review of foreign information requirement

(4) The person on whom a notice of a requirement is served under subsection (2) may, within 90 days after the service of the notice, apply to a judge for a review of the requirement.

Powers on review

(5) On hearing an application under subsection (4) in respect of a requirement, a judge may

(a) confirm the requirement;

(b) vary the requirement as he considers appropriate in the circumstances; or

(c) set aside the requirement if he is satisfied that the requirement is unreasonable.

Idem

(6) For the purposes of paragraph (5)(c), the requirement to provide the information or document shall not be considered to be unreasonable because the information or document is under the control of or available to a non-resident person that is not

controlled by the person served with the notice of the requirement under subsection (2) if that person is related to the non-resident person.

Time during consideration not to count

(7) The period of time between the day on which an application for review of a requirement is made pursuant to subsection (4) and the day on which the review is decided shall not be counted in the computation of

(a) the period of time set forth in the notice of the requirement; and

(b) the period of time within which an assessment may be made pursuant to subsection 152(4).

Consequence of failure

(8) If a person fails to provide all information and documents required in accordance with this section, any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, upon motion of the Minister, prohibit the introduction by that person of any such information or document."

146. The said Act is further amended by adding thereto, immediately after section 233 thereof, the following section:

Information return with respect to certain non-resident persons

"233.1 Every corporation that, at any time in a taxation year, was resident in Canada or carried on business in Canada shall file with the Minister, within 6 months from the end of the year, an annual information return for the year in prescribed form and containing prescribed information in respect of transactions with each non-resident person with whom it was not dealing at arm's length at any time in the year."

147.(1) Subsection 234(2) of the said Act is repealed and the following substituted therefor:

Idem

"(2) An ownership certificate completed pursuant to subsection (1) shall be delivered in such manner, at such time and at such place as may be prescribed."

(2) Subsection 234(4) of the said Act is repealed.

148. Section 235 of the said Act is repealed.

149. Section 237 of the said Act is repealed and the following substituted therefor:

Social Insurance Number

"237.(1) Every individual who is required by paragraph 150(1)(d) to file a return of income for a taxation year or in respect of whom an information return is to be filed by a person pursuant to a regulation made under paragraph 221(1)(d) shall,

(a) on or before the first day of February of the year immediately following the year for which the return of income is required, or

(b) within three days after the individual is requested by the person to provide his Social Insurance Number,

apply to the Minister of National Health and Welfare in prescribed form and manner for the assignment to the individual of a Social Insurance Number unless he has previously been assigned, or made application to be assigned, a Social Insurance Number and shall thereafter provide that number in any return required under this Act or, at the request of any person required to make an information return pursuant to this Act or the regulation requiring the individual's Social Insurance Number, to that person.

Idem

(2) For the purposes of this Act and the regulations, a person required to make an information return requiring an individual's Social Insurance Number

(a) shall make a reasonable effort to obtain from the individual his Social Insurance Number; and

(b) shall not knowingly use, communicate or allow to be communicated, otherwise than as required under this Act or a regulation, the Social Insurance Number of the individual without his express consent."

150.(1) The said Act is amended by adding thereto, immediately after section 237 thereof, the following section:

Definitions

"237.1(1) In this section,

"promoter"
«promoteur»

"promoter" in respect of a tax shelter means a person who in the course of a business

(a) sells, issues or promotes the sale, issuance or acquisition of an interest in the tax shelter; or

(b) acts as an agent or advisor in respect of the sale or issuance, or the promotion of the sale, issuance or acquisition, of an interest in the tax shelter,

and more than one person may be a tax shelter promoter in respect of the same tax shelter;

"tax shelter"
«abri fiscal»

"tax shelter" means any property in respect of which it may reasonably be considered having regard to statements or representations made or proposed to be made in connection with the property that, if a person were to acquire an interest in the property, at the end of any particular taxation year ending within four years after the day on which the interest is acquired,

(a) the aggregate of all amounts each of which is

(i) a loss deductible in computing income in respect of the interest in the property that is expected to be incurred by or allocated to the person for the particular year or any preceding taxation year, or

(ii) any other amount expected to be deductible in computing income or taxable income for the particular taxation year or any preceding taxation year in respect of the interest in the property, other than any amount included in computing a loss described in subparagraph (i),

would exceed

(b) the amount, if any, by which

(i) the cost to the person of the interest in the property at the end of the particular year,

would exceed

(ii) the aggregate of all amounts each of which is the amount of any prescribed benefit that is expected to be received or enjoyed directly or indirectly in respect of the interest in the property, by the person or a person with whom the person does not deal at arm's length

but does not include property that is a flow-through share or a prescribed property.

Application

(2) A promoter in respect of a tax shelter shall apply to the Minister in prescribed form for an identification number for the tax shelter unless an identification number therefor has previously been applied for.

Identification

(3) Upon receipt of an application under subsection (2) for an identification number for a tax shelter, together with prescribed information and an undertaking satisfactory to the Minister that books and records in respect of the tax shelter will be kept and retained at a place in Canada that is satisfactory to the Minister, the Minister shall issue an identification number for the tax shelter.

Sales prohibited

(4) No person shall sell, issue or arrange for the sale, issuance or acquisition of an interest in a tax shelter before the Minister has issued an identification number for the tax shelter.

Providing identification number

(5) Every promoter in respect of a tax shelter shall make reasonable efforts to ensure that all persons who acquire an interest in the tax shelter are provided with the identification number issued by the Minister for the tax shelter.

Deduction disallowed

(6) In computing the amount of income, taxable income, taxable income earned in Canada, tax or other amount payable by, or refundable to a taxpayer under this Act for a taxation year, or any other amount that is relevant for the purposes of computing that amount, no amount may be claimed or deducted by the taxpayer in respect of an interest in a tax shelter unless the taxpayer provides to the Minister the identification number for the shelter.

Information return

(7) Every promoter in respect of a tax shelter, any interest in which was acquired in a calendar year, shall, as and when prescribed, make an information return for that year in a prescribed form containing

(a) the name, address and Social Insurance Number of each person who so acquired an interest in the tax shelter in the year,

(b) the amount paid by each such person for the interest, and

(c) such other information as may be required by the prescribed form,

unless an information return in respect of the acquisition has previously been made.

Application of sections 231 to 231.3

(8) Without restricting the generality of sections 231 to 231.3, where an application under subsection (2) with respect to a tax shelter has been made, notwithstanding that a return of income has not been filed by any taxpayer under section 150 for the taxation year of the taxpayer in which an amount is claimed as a deduction in respect of the tax shelter, sections 231 to 231.3 apply, with such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain any information in respect of the tax shelter."

(2) Subsection (1) shall come into force on a day to be fixed by order of the Governor in Council.

151. Section 238 of the said Act is repealed and the following substituted therefor:

Offences

"238.(1) Every person who has failed to file or make a return as and when required by or under this Act or a regulation or who has failed to comply with subsection 116(3), 127(3.1) or (3.2), 153(1) or 227(5), or any of sections 230 to 232 or with an order made under subsection (2) is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(a) a fine of not less than $1,000 and not exceeding $25,000;

(b) imprisonment for a term not exceeding 12 months; or

(c) both such fine and imprisonment.

Compliance orders

(2) Where a person has been convicted by a court of an offence under subsection (1), the court may make such order as it deems proper in order to enforce compliance with the provision.

Saving

(3) Where a person has been convicted under this section of failing to comply with a provision of this Act or a regulation, he is not liable to pay a penalty imposed under section 162 or 227 for the same failure unless he was assessed for that penalty before the information or complaint giving rise to the conviction was laid or made."

152.(1) Paragraph 239(1)(f) of the said Act is repealed and the following substituted therefor:

"(f) a fine of not less than 50%, and not more than 200%, of the amount of the tax that was sought to be evaded, or"

(2) Subsections 239(2) and (3) of the said Act are repealed and the following substituted therefor:

Prosecution upon indictment

"(2) Every person who is charged with an offence described in subsection (1) may, at the election of the Attorney General of Canada, be prosecuted upon indictment and, if convicted, is, in addition to any penalty otherwise provided, liable to

(a) a fine of not less than 100%, and not more than 200%, of the amount of the tax that was sought to be evaded;

(b) imprisonment for a term not exceeding 5 years; or

(c) both such fine and imprisonment.

Providing incorrect tax shelter identification number

(2.1) Every person who wilfully provides to another person an incorrect identification number for a tax shelter is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(a) a fine of not less than 100%, and not more than 200%, of the cost to the other person of his interest in the shelter;

(b) imprisonment for a term not exceeding 2 years; or

(c) both such fine and imprisonment.

Offence with respect to confidential information

(2.2) Every person

(a) who contravenes subsection 241(1), or

(b) to whom information has been provided pursuant to subsection 241(4) and who knowingly uses, communicates or allows to be communicated such information for any purpose other than that for which it was provided,

is guilty of an offence and is liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

Offence with respect to Social Insurance Number

(2.3) Every person to whom the Social Insurance Number of an individual has been provided pursuant to this Act or a regulation who knowingly uses, communicates, or allows to be communicated, the number for any purpose other than that for which it was so provided or for which the person has been authorized in writing by the individual is guilty of an offence and is liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

Penalty upon conviction

(3) Where a person has been convicted under this section of willfully, in any manner, evading or attempting to evade payment of taxes imposed by Part I, he is not liable to pay a penalty imposed under section 162 or 163 for the same evasion or attempt unless he was assessed for that penalty before the information or complaint giving rise to the conviction was laid or made."

(3) Subsection 239(2.1) of the said Act, as enacted by subsection (2), shall come with force on a day to be fixed by order of the Governor in Council.

153.(1) Paragraph 241(4)(d) of the said Act is repealed and the following substituted therefor:

> "(d) communicate or allow to be communicated to a taxpayer information obtained under this Act or the Petroleum and Gas Revenue Tax Act that may reasonably be regarded as necessary for the purposes of determining any tax, interest, penalty or other amount payable by the taxpayer or any refund to which he is entitled under this Act or the Petroleum and Gas Revenue Tax Act;"

(2) Subsection 241(4) of the said Act is amended by striking out the word "or" at the end of paragraph (g) thereof and by adding thereto the following paragraphs:

> "(i) communicate or allow to be communicated to a taxpayer information obtained under this Act, regarding expenses in respect of which a deduction is denied under subsection 18(2) or 18(3.1) to any other taxpayer, that is necessary for the purpose of determining the cost or adjusted cost base, as the case may be, to the taxpayer of any property; or
>
> (j) communicate or allow to be communicated to a taxpayer information obtained under this Act from a corporation that previously held property of the taxpayer that relates to the control of the corporation or the question whether the corporation was exempt from tax under Part I on its taxable income if it is necessary for the purposes of determining under this Act whether a gain from a disposition of the property accrued while the property was a property of a corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons or of a corporation exempt from tax under Part I on its taxable income."

(3) Subsection 241(9) of the said Act is repealed.

(4) Subsection (1) is applicable with respect to information necessary for determining amounts with respect to the 1988 or subsequent taxation years.

(5) Paragraph 241(4)(i) of the said Act, as enacted by subsection (2), is applicable after 1987.

(6) Paragraph 241(4)(j) of the said Act, as enacted by subsection (2), is applicable after 4 p.m. Eastern Daylight Saving Time, September 25, 1987.

154.(1) Subsection 244(14) of the said Act is repealed and the following substituted therefor:

Mailing date

"(14) For the purposes of this Act, the day of mailing of any notice or notification described in subsection 149.1(6.3), 152(4), 164(1.2), 192(8), 194(7) or 225.2(1) or of any notice of assessment shall be presumed to be the date of such notice or notification."

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

155.(1) Section 245 of the said Act is repealed and the following substituted therefor:

Definitions

"245.(1) In this section and in subsection 152(1.11),

"tax benefit"
«avantage fiscal»

"tax benefit" means a reduction, avoidance or deferral of tax or other amount payable under this Act or an increase in a refund of tax or other amount under this Act;

"tax consequences"
«attribut fiscal»

"tax consequences" to a person means the amount of income, taxable income, or taxable income earned in Canada of, tax or other amount payable by, or refundable to the person under this Act, or any other amount that is relevant for the purposes of computing that amount;

"transaction"
«opération»

"transaction" includes an arrangement or event.

General anti-avoidance provision

(2) Where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny the tax benefit that, but for this section, would result, directly or indirectly, from that transaction or from a series of transactions that includes that transaction.

Avoidance transaction

(3) An avoidance transaction means any transaction

(a) that, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit; or

(b) that is part of a series of transactions, which series, but for this section, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit.

Provision not applicable

(4) For greater certainty, subsection (2) does not apply to a transaction where it may reasonably be considered that the transaction would not result directly or indirectly in a misuse of the provisions of this Act or an abuse having regard to the provisions of this Act, other than this section, read as a whole.

Determination of tax consequences

(5) Without restricting the generality of the foregoing,

(a) any deduction in computing income, taxable income, taxable income earned in Canada or tax payable or any part thereof may be allowed or disallowed in whole or in part,

(b) any such deduction, any income, loss or other amount or part thereof may be allocated to any person,

(c) the nature of any payment or other amount may be recharacterized, and

(d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored,

in determining the tax consequences to a person as is reasonable in the circumstances in order to deny a tax benefit that would, but for this section, result, directly or indirectly, from an avoidance transaction.

Request for adjustments

(6) Where with respect to a transaction

(a) a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to the transaction has been sent to a person, or

(b) a notice of determination pursuant to subsection 152(1.11) has been sent to a person with respect to the transaction

any person (other than a person referred to in paragraph (a) or (b)) shall be entitled, within 180 days after the day of mailing of the notice, to request the Minister to make an assessment, reassessment or additional assessment applying subsection (2) or to make a determination applying subsection 152(1.11) with respect to that transaction.

Exception

(7) Notwithstanding any other provision of this Act, the tax consequences to any person, following the application of this section, shall only be determined through a notice of assessment, reassessment, additional assessment or determination pursuant to subsection 152(1.11) involving the application of this section.

Duties of Minister

(8) Upon receipt of a request by a person under subsection (6), the Minister shall, with all due dispatch, consider the request, and

(a) on the basis of that request and notwithstanding subsection 152(4), assess, reassess or make an additional assessment or determination pursuant to subsection 152(1.11) with respect to that person, or

(b) reject the request and thereupon notify the person of his rejection by registered mail.

Provisions applicable

(9) Paragraphs 56(1)(l) and 60(o) and Divisions I and J, as they relate to an assessment or a reassessment and to assessing or reassessing tax, are applicable, with such modifications as the circumstances require, to the rejection of a request made pursuant to subsection (6) as if it were an assessment.

Recourse to Explanatory Notes

(10) In interpreting this section, recourse may be had to any explanatory notes thereto provided by the Minister of Finance who shall cause such notes to be published in the *Canada Gazette* forthwith on the coming into force of this section."

(2) Subsection (1) is applicable with respect to transactions entered into on or after the day on which this Act is assented to other than transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the said Act, commencing before the day on which this Act is assented to and completed before 1989.

156.(1) The said Act is further amended by adding thereto, immediately after section 245 thereof, the following section:

Benefit conferred on a person

"246.(1) Where a person confers a benefit, either directly or indirectly, by any means whatever, on a taxpayer, the amount of the benefit shall, to the extent that it is not otherwise included in the taxpayer's income under Part I and would be included in his income if the amount of the benefit were a payment made directly by the person to the taxpayer and if the taxpayer were resident in Canada, be

(a) included in computing the taxpayer's income under Part I; or

(b) where the taxpayer is a non-resident person, deemed to be a payment made to the taxpayer.

Arm's length

(2) Where it is established that a transaction was entered into by persons dealing at arm's length, bona fide and not pursuant to, or as part of, any other transaction and not to effect payment, in whole or in part, of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section, as having conferred a benefit on a party with whom he was so dealing"

(2) Subsection (1) is applicable with respect to benefits conferred on or after the day on which this Act is assented to other than benefits conferred through transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the said Act, commencing before the day on which this Act is assented to and completed before 1989.

157.(1) Subsection 247(1) of the said Act is repealed.

(2) Subsection (1) is applicable with respect to transactions entered into on or after the day on which this Act is assented to other than transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the said Act, commencing before the day on which this Act is assented to and completed before 1989.

158.(1) The definitions "business", "capital dividend", "exempt income", "group term life insurance policy", "private health services plan", "registered Canadian amateur athletic association" and "registered charity" in subsection 248(1) of the said Act are repealed and the following substituted therefor:

"business"
«entreprise» ou «affaires»

""business" includes a profession, calling, trade, manufacture or undertaking of any kind whatever and, except for the purposes of paragraph 18(2)(c) and section 54.2, an adventure or concern in the nature of trade but does not include an office or employment;

"capital dividend"
«dividende en capital»

"capital dividend" has the meaning assigned by section 83;"

"exempt income"
«revenu exonéré»

"exempt income" means money or property received or acquired by a person in such circumstances that it is, by reason of any provision in Part I, not included in computing his income, but for greater certainty does not include a dividend on a share;

"group term life insurance policy"
«police collective d'assurance temporaire sur la vie»

"group term life insurance policy", with respect to a taxpayer, means a group life insurance policy under which no amount is payable to the taxpayer as a result of contributions made to or under the policy by the employer of the taxpayer before the death or disability of the taxpayer;

"private health services plan"
«régime privé d'assurance-maladie»

"private health services plan" means

(a) a contract of insurance in respect of hospital expenses, medical expenses or any combination of such expenses, or

(b) a medical care insurance plan or hospital care insurance plan or any combination of such plans,

except any such contract or plan established by or pursuant to

(c) a law of a province that establishes a health care insurance plan in respect of which the province receives contributions from Canada for insured health services provided under the plan pursuant to the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977, or

(d) an Act of the Parliament of Canada or a regulation made thereunder that authorizes the provision of a medical care insurance plan or hospital care insurance plan for employees of Canada and their dependants and for dependants of members of the Royal Canadian Mounted Police and the regular force where such employees or members were appointed in Canada and are serving outside Canada;

"registered Canadian amateur athletic association"
«association canadienne enregistrée de sport amateur»

"registered Canadian amateur athletic association" means an association that was created under any law in force in Canada, that is resident in Canada, and that

(a) is a person described in paragraph 149(1)(l), and

(b) has, as its primary purpose and its primary function, the promotion of amateur athletics in Canada on a nation-wide basis,

that has applied to the Minister in prescribed form for registration, that has been registered and whose registration has not been revoked under subsection 168(2);

"registered charity"
«organisme de charité enregistré»

"registered charity" at any time means

(a) a charitable organization, private foundation or public foundation, within the meanings assigned by subsection 149.1(1), that is resident in Canada and was either created or established in Canada, or

(b) a branch, section, parish, congregation or other division of an organization or foundation described in paragraph (a), that is resident in Canada and was either created or established in Canada and that receives donations on its own behalf,

that has applied to the Minister in prescribed form for registration and that is at that time registered as a charitable organization, private foundation or public foundation;"

(2) Subsection 248(1) of the said Act is further amended by adding thereto, in alphabetical order within the subsection, the following definitions:

"adjustment time"
«moment du rajustement»

""adjustment time" has the meaning assigned by paragraph 14(5)(c);

"amortized cost"
«coût amorti»

"amortized cost" of a loan or lending asset at any time to a taxpayer means the amount, if any, by which the aggregate of

(a) in the case of a loan made by the taxpayer, the aggregate of all amounts advanced in respect of the loan at or before that time,

(b) in the case of a loan or lending asset acquired by the taxpayer, the cost of the loan or lending asset to the taxpayer,

(c) in the case of a loan or lending asset acquired by the taxpayer, the part of the amount, if any, by which

(i) the principal amount of the loan or lending asset at the time it was so acquired

exceeds

(ii) the cost to the taxpayer of the loan or lending asset

that was included in computing the taxpayer's income for any taxation year ending at or before that time,

(d) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed by reason of paragraph 142(3)(a), as it read in its application to the 1977 taxation year, to be a gain for any taxation year ending at or before that time, and

(e) the total of all amounts each of which is an amount in respect of the loan or lending asset that was included under paragraph 12(1)(i) in computing the taxpayer's income for any taxation year ending at or before that time

exceeds the aggregate of

(f) the part of the amount, if any, by which

(i) the amount referred to in subparagraph (c)(ii)

exceeds

(ii) the amount referred to in subparagraph (c)(i) that was deducted in computing the taxpayer's income for any taxation year ending at or before that time,

(g) the total of all amounts that, at or before that time, the taxpayer had received as or on account or in lieu of payment of or in satisfaction of the principal amount of the loan or lending asset, and

(h) where the taxpayer is an insurer, any amount in respect of the loan or lending asset that was deemed by reason of paragraph 142(3)(b), as it read in its application to the 1977 taxation year, to be a loss for any taxation year ending at or before that time, and

(i) the total of all amounts each of which is an amount in respect of the loan or lending asset deducted under paragraph 20(1)(p) in computing the taxpayer's income for any taxation year ending at or before that time;

"appropriate percentage"
«taux de base»

"appropriate percentage" for a taxation year means the lowest percentage referred to in subsection 117(2) that is applicable in determining tax payable under Part I for the year;

"automobile"
«automobile»

"automobile" means

(a) a motor vehicle that is designed or adapted primarily to carry individuals and their personal luggage and that has a seating capacity for not more than the driver and 8 passengers, and

(b) a motor vehicle that is

(i) of a type commonly called a station wagon or van or a similar vehicle if it is equipped in a reasonably permanent way to carry more than the driver and 2 passengers but not more than the driver and 8 passengers, or

(ii) of a type commonly called a van or pick-up truck or a similar vehicle unless it is designed or adapted to carry not more than the driver and 2 passengers and is used primarily for the transportation of goods or equipment, but does not include

(c) an ambulance,

(d) a motor vehicle acquired primarily for use as a taxi or in connection with funerals, or

(e) a motor vehicle acquired to be rented or leased in the course of carrying on a business of renting or leasing motor vehicles;

"eligible capital amount"
«montant en immobilisations admissibles»

"eligible capital amount" has the meaning assigned by subsection 14(1);

"lending asset"
«titre de crédit»

"lending asset" means a bond, debenture, mortgage, note, hypothec, agreement of sale or any other indebtedness or a prescribed share, but does not include a prescribed security;

"motor vehicle"
«véhicule à moteur»

"motor vehicle" means an automotive vehicle designed or adapted to be used on highways and streets but does not include

(a) a trolley bus, or

(b) a vehicle designed or adapted to be operated exclusively on rails;

"passenger vehicle"
«voiture de tourisme»

"passenger vehicle" means an automobile acquired after June 17, 1987 (other than an automobile acquired after that date pursuant to an obligation in writing entered into before June 18, 1987) and an automobile leased under a lease entered into, extended or renewed in writing after June 17, 1987;

"personal services business"
«entreprise de prestation de services personnels»

"personal services business" has the meaning assigned by paragraph 125(7)(d);

"specified investment business"
«entreprise de placement désignée»

"specified investment business" has the meaning assigned by paragraph 125(7)(e);"

"specified member"
«associé déterminé»

"specified member" of a partnership in a fiscal period or taxation year of the partnership, as the case may be, means

(a) any member of the partnership who is a limited partner (within the meaning assigned by subsection 96(2.4)) of the partnership at any time in the period or year, and

(b) any member of the partnership, other than a member who is

(i) actively engaged in those activities of the partnership business which are other than the financing of the partnership business, or

(ii) carrying on a similar business as that carried on by the partnership in its taxation year, otherwise than as a member of a partnership,

on a regular, continuous and substantial basis throughout that part of the period or year during which the business of the partnership is ordinarily carried on and during which he is a member of the partnership;

"tax shelter"
«abri fiscal»

"tax shelter" has the meaning assigned by subsection 237.1(1);"

(3) Paragraph (e) of the definition "cost amount" in subsection 248(1) of the said Act is repealed and the following substituted therefor:

"(e) where the property was a debt owing to the taxpayer (other than the amount in respect of such property that was deducted under paragraph 20(1)(p) in computing the taxpayer's income for a taxation year ending before that time) or any other right of the taxpayer to receive an amount, the amortized cost of the property to the taxpayer at that time or, where the property does not have an amortized cost to the taxpayer, the amount of the debt or right that was outstanding at that time, (e.1) where the property was a policy loan (within the meaning assigned by paragraph 138(12)(k.1)) of an insurer, nil, and"

(4) Subsection 248(11) of the said Act is repealed and the following substituted therefor:

Compound interest

"(11) Interest computed at a prescribed rate under any of subsections 159(7), 160.1(1), 161(1), (2) or (11), 164(3) to (4), 182(2), 185(2), 187(2) or 189(7), section 190.23 or subsections 191(2), 193(3), 195(3), 202(5), or 227(8.3), (9.2) or (9.3) shall be compounded daily, and, where interest is computed on an amount under any of those provisions and is unpaid on the day it would, but for this subsection, have ceased to be computed under that provision, interest at the prescribed rate shall be computed and compounded daily on the unpaid interest from that day to the day it is paid."

(5) Section 248 of the said Act is further amended by adding thereto the following subsection:

Identical properties

"(12) For the purposes of this Act, one bond, debenture, bill, note or similar obligation issued by a debtor is identical to another such obligation issued by that debtor if both are identical in respect of all rights (in equity or otherwise, either immediately or in the future and either absolutely or contingently) attaching thereto, except as regards the principal amount thereof."

(6) The definition "business " in subsection 248(1) of the said Act, as enacted by subsection (1), is applicable with respect to dispositions occurring after 1987.

(7) The definition "capital dividend" in subsection 248(1) of the said Act, as enacted by subsection (1), is applicable with respect to dividends paid after 4 p.m. Eastern Daylight Saving Time, September 25, 1987.

(8) The definition "exempt income" in subsection 248(1) of the said Act, as enacted by subsection (1), is applicable with respect to transactions entered into on or after the day on which this Act is assented to other than transactions that are part of a series of transactions, determined without reference to subsection 248(10) of the said Act, commencing before the day on which this Act is assented to and completed before 1989.

(9) The definition "group term life insurance policy" in subsection 248(1) of the said Act, as enacted by subsection (1), and the definition "adjustment time" and "eligible capital amount" in subsection 248(1) of the said Act, as enacted by subsection (2), are applicable after 1987.

(10) The definitions "private health services plan", "registered Canadian amateur athletic association" and " registered charity" in subsection 248(1) of the said Act, as enacted by subsection (1), and the definitions "appropriate percentage", "personal services business" and "specified investment business" in subsection 248(1) of the said Act, as enacted by subsection (2), are applicable to the 1988 and subsequent taxation years.

(11) The definitions "amortized cost", "automobile", "lending asset", "motor vehicle" and "passenger vehicle" in subsection 248(1) of the said Act, as enacted by subsection (2), and subsection (5) are applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(12) The definition "specified member" in subsection 248(1) of the said Act, as enacted by subsection (2), is applicable after December 15, 1987.

(13) Subsection (3) is applicable after 1986.

159.(1) Paragraph 250(1)(f) of the said Act is repealed and the following substituted therefor:

> "(f) he was at any time in the year a child of a person described in paragraph (b), (c), (d) or (d.1) and a dependant, as described in paragraph 118(1)(d), of that person."

(2) Subsection 250(2) of the said Act is repealed and the following substituted therefor:

Idem

> "(2) Where at any time in a taxation year a person described in paragraph (1)(b), (c) or (d) ceases to be a person so described, or a person described in paragraph (1)(d.1) ceases to be a member of the overseas Canadian Forces school staff, he shall be deemed to have been resident in Canada throughout the part of the year preceding that time and his spouse and child who by reason of paragraph (1)(e) or (f) would, but for this subsection, be deemed to have been resident in Canada throughout the year, shall be deemed to have been resident in Canada throughout that part of the year."

(3) Subsections (1) and (2) are applicable to the 1988 and subsequent taxation years.

160.(1) All that portion of subsection 251(6) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Blood relationship etc.

"(6) For the purposes of this Act,"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

161.(1) Paragraph 252(1)(b) of the said Act is repealed and the following substituted therefor:

"(b) a person who is wholly dependent on the taxpayer for support and of whom the taxpayer has, or immediately before the person attained the age of 19 years had , in law or in fact, the custody and control;"

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

162.(1) All that portion of subsection 256(7) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Control deemed not to be acquired

"(7) For the purposes of subsection 13(24), section 37, subsections 66(11), (11.4) and (11.5), 66.5(3), 66.7(10) and (11), 87(2.1), 88(1.1) and (1.2), 89(1.1), sections 111 and 127 and subsection 249(4)"

(2) Subsection (1) is applicable after 4 p.m. Eastern Daylight Saving Time, September 25, 1987.

Private corporation year-end election

163. Notwithstanding subsection 249(1) of the said Act,

(a) where a corporation that was, throughout the period commencing at the beginning of its last taxation year commencing before 1988 and ending at the end of 1987, a Canadian-controlled private corporation, so elects in its return of income under Part I of the said Act for its taxation year that commenced before 1988 and would, but for this paragraph, have ended after 1987, that taxation year shall be deemed to have ended on December 31, 1987 and a new taxation year of the corporation shall be deemed to have commenced immediately after that date;

(b) where a corporation that was, throughout the period commencing at the beginning of its last taxation year commencing before July, 1988 and ending at the end of June, 1988, a private corporation other than a Canadian-controlled private corporation, so elects in its return of income under Part I of the said Act for its taxation year that commenced before July, 1988 and would, but for this paragraph, have ended after June, 1988, that taxation year shall be deemed to have ended on June 30, 1988 and a new taxation year of the corporation shall be deemed to have commenced immediately after that date; and

(c) where paragraph (a) or (b) applies in respect of a corporation, it shall be deemed not to have established a fiscal period on or before the date referred to in paragraph (a) or (b), as the case may be, for the purposes of determining the corporation's fiscal period after that date.

164.(1) The said Act is further amended in the manner and to the extent set out in Schedule I.

(2) Subsection (1) is applicable to the 1988 and subsequent taxation years.

PART II

INCOME TAX APPLICATION RULES, 1971

165. Subsection 62(3) of the Income Tax Application Rules, 1971 is repealed.

PART III

AN ACT TO AMEND THE INCOME TAX ACT AND RELATED STATUTES AND TO AMEND THE CANADA PENSION PLAN, THE UNEMPLOYMENT INSURANCE ACT, 1971, THE FINANCIAL ADMINISTRATION ACT AND THE PETROLEUM AND GAS REVENUE TAX ACT

166. Subsection 33(7) of An Act to Amend the Income Tax Act and related statutes and to amend the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Financial Administration Act and the Petroleum and Gas Revenue Tax Act, being chapter 6 of the Statutes of Canada, 1986 is repealed and the following substituted therefor:

"(7) Subsections (3) to (5) are applicable with respect to deaths of taxpayers occurring after 1987 except that the repeal of subsection 70(9.5) of the said Act, as enacted by subsection (3), is applicable with respect to deaths of taxpayers' spouses occurring after 1987 and the repeal of paragraph 70(11)(c) of the said Act, as enacted by subsection (5), is applicable with respect to the 1985 and subsequent taxation years."

PART IV

AN ACT TO AMEND THE INCOME TAX ACT AND A RELATED ACT

167. Subsection 26(5) of an Act to amend the Income Tax Act and a related Act, being Chapter 55 of the Statutes of Canada, 1986, is repealed and the following substituted therefor:

"(5) Subsections (1) to (4) are applicable with respect to property received by a member of a partnership where

(a) the property was acquired by the partnership after December 4, 1985, otherwise than pursuant to an agreement in writing entered into before that date;

(b) the property is received in satisfaction of an interest in the partnership acquired by the member after December 4, 1985, otherwise than

(i) pursuant to an agreement in writing entered into on or before that date, or

(ii) from a person with whom the member was not dealing at arm's length, where the interest in the partnership has not been acquired in an arm's length transaction after December 4, 1985, otherwise than pursuant to an agreement in writing entered into on or before that date; or

(c) the property is received in satisfaction of an interest in the partnership that was owned by a corporation at a time when control thereof was acquired (otherwise than by virtue of an acquisition described in paragraph 256(7)(a) of the said Act) after December 4, 1985, otherwise than pursuant to an agreement in writing entered into on or before that date,

and, for the purposes of subparagraph (b)(ii), the references to "arm's length" shall be interpreted as though the said Act were read without reference to paragraph 251(5)(b) thereof, except that

(d) in respect of properties to which subsection (2) does not apply, subparagraph 98(3)(d)(iii) of the said Act shall, in its application to taxation years and fiscal periods ending after 1987, be read as follows:

> "(iii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such properties that are depreciable property or properties other than capital properties, exceed 3/4 of the amount determined under subparagraph (i) in respect of him;",

(e) where the person is an individual, for taxation years and fiscal periods ending after 1987 and before 1990, the reference in subparagraph 98(3)(d)(iii) of the said Act to "3/4" shall be read as a reference to "2/3",

(f) where the person is a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990 the reference to "3/4" in subparagraph 98(3)(d)(iii) of the said Act shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

> (i) that proportion of 1/2 that the number of days in the year that are before 1988 is of the number of days in the year,
>
> (ii) that proportion of 2/3 that the number of days in the year that are after 1987 and before 1990 is of the number of days in the year, and
>
> (iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year; and

(g) where the person is a corporation that was not a Canadian-controlled private corporation throughout its taxation year, for taxation years ending after 1987 and commencing before 1990, the reference to "3/4" in subparagraph 98(3)(d)(iii) of the said Act shall, in respect of the corporation for the year, be read as a reference to the fraction determined as the aggregate of

> (i) that proportion of 1/2 that the number of days in the year that are before July, 1988 is of the number of days in the year,

(ii) that proportion of 2/3 that the number of days in the year that are after June, 1988 and before 1990 is of the number of days in the year, and

(iii) that proportion of 3/4 that the number of days in the year that are after 1989 is of the number of days in the year."

168.(1) Subsections 45(1) and (3) of the said Act are repealed.

(2) Subsection (1) is applicable to taxation years ending after June, 1987.

169. Subsection 46(3) of the said Act is repealed and the following substituted therefor:

"(3) There shall be added to the amount otherwise determined in respect of a corporation for a taxation year under subsection 125.1(1) of the said Act that proportion of 1% of the lesser of

(i) the corporation's Canadian manufacturing and processing profits for the year, and

(ii) the least of the amounts determined under paragraphs 125(1)(a) to (c) of the said Act in respect of the corporation for the year

that the number of days in the year that are after June, 1987 and before July, 1988 is of the number of days in the year."

170.(1) Paragraph 52(2)(b) of the said Act is repealed and the following substituted therefor:

"(b) taxation years ending after 1986 and before 1988, there shall be added to the amount otherwise determined under that subsection in respect of a corporation for a taxation year the aggregate of

(i) that proportion of 3% of the excess determined under that subsection that the number of days in the year that are before July, 1987 is of the number of days in the year, and

(ii) that proportion of 2% of the excess determined under that subsection that the number of days in the year that are after June, 1987 and before 1988 is of the number of days in the year."

(2) Subsection (1) shall be deemed to have come into force on December 19, 1986.

PART V

CANADA PENSION PLAN

171. Subsection 22(6) of the Canada Pension Plan is repealed and the following substituted therefor:

Interest on amounts not remitted

"(6) Where an employer has failed to remit to the Receiver General an amount that he was required to remit at the time when he was required to do so, he shall pay to the Receiver General interest on that amount at the prescribed rate computed from the day on which he was so required to remit the amount to the day of remittance of the amount to the Receiver General.

Penalty for failure to remit

(7) Every employer who in a calendar year fails to remit to the Receiver General an amount that he is required to remit at the time when he is required to do so is liable to a penalty of

(a) 10% of the amount, or

(b) 20% of the amount, where the employer has at the time of the failure been assessed a penalty under this subsection in respect of an amount that he was required to remit during the year."

PART VI

UNEMPLOYMENT INSURANCE ACT, 1971

172. Subsection 68(6) of the Unemployment Insurance Act, 1971 is repealed and the following substituted therefor:

Interest on amounts not remitted

"(6) Where an employer has failed to remit to the Receiver General an amount that he was required to remit at the time when he was required to do so, he shall pay to the Receiver General interest on that amount at the prescribed rate computed from the day on which he was so required to remit the amount to the day of remittance of the amount to the Receiver General.

Penalty for failure to remit

(7) Every employer who in a calendar year fails to remit to the Receiver General an amount that he is required to remit at the time when he is required to do so is liable to a penalty of

(a) 10% of the amount, or

(b) 20% of the amount, where the employer has at the time of the failure been assessed a penalty under this subsection in respect of an amount that he was required to remit during the year."

173. Subsection 145.2(2) of the said Act is repealed and the following substituted therefor:

Idem

"(2) In relation to any information obtained pursuant to subsection (1), an official or authorized person of the Commission shall be deemed to be an official or authorized person within the meaning of paragraphs 241(10)(a) and (b) of the Income Tax Act and shall be subject to subsections 241(1) and (2) and 239(2.2) of that Act."

SCHEDULE I
(Subsection 164(1))

The word "tax" is substituted for the words "capital tax" wherever they occur in the following provisions:

1. subsection 190.1(1);
2. subsection 190.18(1);
3. subsection 190.18(2);
4. section 190.19;
5. section 190.2;
6. section 190.22;
7. section 190.23.

Appendix I

Draft Income Tax Regulations: Administration

Appendix I

Draft Income Tax Regulations - Administration

1. Subsection 209(1) of the Income Tax Regulations is revoked and the following substituted therefor:

> "209.(1) Every person required by section 200, 201, 202, 204, 208, 212, 214, 215, 217, 218, 223, 226, 227, 228, 229 or 230 to make an information return shall forward to each taxpayer to whom the return relates, two copies of the portion of the return relating to that taxpayer."

2. Part II of the said Regulations is amended by adding thereto the following:

"Partnership Return

> 229.(1) Every member of a partnership that carries on a business in Canada at any time in a fiscal period of the partnership shall make for the period an information return in prescribed form containing the following information:
>
> (a) the income or loss of the partnership for the period;
>
> (b) the name, address and Social Insurance Number of each member of the partnership who is entitled to a share or allocation referred to in paragraph (c) or (d) for the period;
>
> (c) the share of each member of the income or loss of the partnership for the period;
>
> (d) the share of each member for the period of each deduction, credit or other amount that is relevant in determining the income, taxable income, tax payable or other amount under the Act;
>
> (e) the prescribed information contained in the form prescribed for the purposes of subsection 37(1) of the Act, where the partnership has made an expenditure in respect of scientific research and experimental development in the period; and

(f) such other information as may be required by the prescribed form.

(2) For the purposes of subsection (1), an information return made by any member of a partnership shall be deemed to have been made by each member of the partnership.

(3) Every person who holds an interest in a partnership as nominee or agent for another person shall make an information return in prescribed form in respect of such interest.

(4) The Minister may exempt the members of any partnership or class of partnerships from the application of all or part of this section.

Security Transactions

230.(1) In this section,

"trader or dealer in securities" means

(a) a person who is registered or licensed under the laws of a province to trade in securities; or

(b) a person who in the ordinary course of business makes sales of securities as agent on behalf of others;

"sale" includes the granting of an option and a short sale, but does not include any sale that is subsequently cancelled;

"security" means

(a) a publicly traded share of the capital stock of a corporation;

(b) a publicly traded debt obligation;

(c) a debt obligation of or guaranteed by the Government of Canada, the government of a province or an agent thereof, a municipality in Canada, a municipal or public body performing a function of government in Canada, or a foreign government, a political subdivision or a local authority thereof;

(d) a publicly traded interest in a trust;

(e) a publicly traded interest in a partnership;

(f) an option or contract in respect of any property described in paragraphs (a) to (e); and

(g) a publicly traded option or contract in respect of any property including any commodity, foreign currency, precious metal or any index relating thereto;

"publicly traded" means, with respect to any security,

(a) a security that is listed or posted for trading on a stock exchange, commodity exchange, futures exchange or any other exchange; or

(b) a security in respect of which a prospectus, registration statement or similar document has been filed with a public authority in connection with the sale and distribution of such property.

(2) Every trader or dealer in securities who, in a calendar year, purchases a security as principal or sells a security for which he acted as agent for any vendor shall make an information return for the year in prescribed form in respect of the purchase or sale.

(3) Every corporation, trust or partnership that redeems, acquires or cancels in any manner whatever any of its securities in a calendar year shall make an information return for the year in prescribed form in respect of each such transaction, other than a transaction to which section 51, 86 or 87 applies.

(4) Every person who, in the ordinary course of a business of buying and selling precious metals in the form of certificates, bullion or coins, makes a payment in a calendar year to another person in respect of a sale by that other person of any such property shall make an information return for that year in prescribed form in respect of each such sale.

(5) Every person who receives as nominee or agent for another person or partnership proceeds of a sale or other transaction to which subsection (2), (3) or (4) applies shall make an information return in prescribed form in respect of the sale or other transaction.

(6) This section does not apply to

(a) a purchase of a security by a trader or dealer in securities from another trader or dealer in securities;

(b) a sale of currencies or precious metals as jewellery, works of art or numismatic coins;

(c) a sale of precious metals by a person who, in the ordinary course of business, produces or sells precious metals in bulk or in commercial quantities; or

(d) a sale of securities by a trader or dealer in securities on behalf of a person who is exempt from tax under Part I of the Act.

Tax Shelters

231.(1) In this section, "promoter" with respect to a tax shelter has the meaning assigned by subsection 237.1(1) of the Act.

(2) An information return made under subsection 237.1(7) of the Act in respect of the acquisition of an interest in a tax shelter in a calendar year shall be filed with the Minister on or before the last day of February of the immediately following calendar year.

(3) Where a person who is required to make a return under subsection 237.1(7) of the Act discontinues his business or activity, the return shall be filed within 30 days of the day of the discontinuance of the business or activity in respect of any calendar year or portion thereof prior to the discontinuance of the business or activity for which a return has not previously been filed.

(4) Every person required to make a return described in subsection (2) shall, on or before the day the return is required to be filed with the Minister, forward to each person to whom the return relates two copies of the portion thereof relating to that person.

(5) Every promoter with respect to a tax shelter shall include on every written statement made by him which refers to the identification number of the tax shelter, as well as on the copies of the portion of the information return to be forwarded pursuant to subsection (4), the following statement:

> "The identification number issued for this tax shelter shall be included on any income tax return filed by the investor. Issuance of the identification number is for administrative purposes only and does not in any way confirm the entitlement of an investor to claim any tax benefits associated with the tax shelter."

(6) For the purposes of paragraph (b) of the definition "tax shelter" in subsection 237.1(1) of the Act, "prescribed benefit" in relation to a tax shelter means any amount that may reasonably be expected, having regard to statements or representations made in respect of the tax shelter by a promoter, to be received or enjoyed by a person (in this subsection referred to as "the purchaser") who acquires an interest in the tax shelter, or by a person with whom the purchaser does not deal at arm's length, for the purpose of reducing the impact of any loss that the purchaser may sustain by virtue of his acquiring, holding or disposing of the interest in the tax shelter, and includes

(a) an amount owed to any other person by the purchaser or a person with whom the purchaser does not deal at arm's length, to the extent that

(i) liability to pay that amount is contingent,

(ii) payment of that amount is or will be guaranteed by, security is or will be provided by, or an agreement to indemnify the other person to whom the amount is owed is or will be entered into by

(A) a promoter with respect to the tax shelter,

(B) a person with whom the promoter does not deal at arm's length, or

(C) a person who is to receive a payment in respect of the guarantee, security or agreement to indemnify,

(iii) the rights of that other person against the purchaser, or against a person with whom the purchaser does not deal at arm's length, in respect of the payment of that amount are limited, or

(iv) payment of that amount is to be made in a foreign currency or by reference to a foreign currency and it may reasonably be considered, having regard to the history of the exchange rate between the foreign currency and Canadian currency, that the aggregate of all such payments, when converted to Canadian currency at the exchange rate expected to prevail at the date on which each such payment would be required to be made, is to be substantially less than that aggregate would be if each such payment were converted to Canadian currency at the time that each such payment became owing,

(b) an amount which the purchaser or a person with whom the purchaser does not deal at arm's length is entitled at any time to receive, directly or indirectly, or enjoy

(i) as a form of assistance from a government, municipality or other public authority, whether as a grant, subsidy, forgiveable loan, deduction from tax or investment allowance, or as any other form of assistance, or

(ii) by virtue of a revenue guarantee or other agreement in respect of which revenue may be earned by the purchaser or a person with whom the purchaser does not deal at arm's length, to the extent that the revenue guarantee or other agreement may reasonably be considered to ensure that the purchaser or person will receive a return of a portion of the purchaser's investment, and

(c) an amount that is the proceeds of disposition to which the purchaser may be entitled by way of an agreement or other arrangement under which the purchaser has a right, either absolutely or contingently, to dispose of the interest in the tax shelter (otherwise than as a consequence of his death), including the fair market value of any property that the agreement or arrangement provides for the acquisition of in exchange for all or any part of the interest in the tax shelter,

but, except as otherwise provided in subparagraph (b)(ii), does not include profits earned in the ordinary course in respect of the tax shelter."

Appendix II

Draft Income Tax Regulations: Financial Institutions

Appendix II

Draft Income Tax Regulations - Financial Institutions

1. Part VI of the Income Tax Regulations is revoked.

2.(1) Paragraph 808(2)(j) of the said Regulations is revoked and the following substituted therefor:

> "(j) an amount equal to the aggregate of each amount deducted by the corporation under paragraph 20(1)(1), (1.1) or (n) or subsection 64(1), (1.1) or (1.2) of the Act, in computing its income for the year from a business carried on by it in Canada;"

(2) All the portion of subparagraph 808(2)(p)(i) of the said Regulations preceding clause (A) thereof is revoked and the following substituted therefor:

> "(i) an amount equal to the aggregate of each amount deducted by the corporation in the year under paragraph 20(1)(1) or (1.1) or subsection 64(1), (1.1) or (1.2) of the Act in computing its income for the year from a source other than"

(3) Paragraph 808(5)(h) of the said Regulations is revoked and the following substituted therefor:

> "(h) an amount equal to the aggregate of each amount deducted by the partnership under paragraph 20(1)(1), (1.1) or (n) or subsection 64(1), (1.1) or (1.2) of the Act, in computing its income for the fiscal period from a business carried on by it in Canada;"

3. Part LXII of the said Regulations is amended by adding thereto the following section:

"6209. For the purposes of the definition of "lending asset" in subsection 248(1) of the Act,

(a) a share is a prescribed share for a taxation year where it is a preferred share of the capital stock of a corporation owned by a bank to which the Bank Act or the Quebec Savings Banks Act applies that is reported as a substitute or alternative for a loan to the corporation in the bank's annual report for the year to the relevant authority or, where the bank was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report for the year with the relevant authority, in its financial statements for the year; and

(b) a security is a prescribed security for a taxation year where,

(i) in the case of a security held by bank to which the Bank Act or the Quebec Savings Banks Act applies, the security is reported as part of the bank's trading account in its annual report for the year to the relevant authority or, where the bank was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report for the year with the relevant authority, in its financial statements for the year, or

(ii) in the case of a security held by any other taxpayer, the security is at any time in the year described in an inventory of the taxpayer."

4. The said Regulations are further amended by adding thereto the following Parts:

"PART LXXX
PRESCRIBED RESERVE AMOUNT AND RECOVERY RATE

8000. For the purposes of clause 20(1)(l)(ii)(A) of the Act, the prescribed reserve amount for a taxpayer for a taxation year means the aggregate of

(a) where the taxpayer is a bank to which the Bank Act or the Quebec Savings Banks Act applies, the amount of the reserve reported in its annual report for the year to and accepted by the relevant authority or, where the taxpayer was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report for the year with the relevant authority, in its financial statements for the year, as general provisions in respect of exposures to designated countries or as a special provision for losses on transborder claims, not exceeding 40% of the amortized cost to the taxpayer at the end of the year of the loans or lending assets of the taxpayer that were included in calculating those provisions and that were made or acquired by it in the ordinary course of business; and

(b) a reasonable amount of a reserve for the year in respect of doubtful loans or lending assets of the taxpayer computed by

(i) identifying loans or lending assets of the taxpayer with respect to which a reserve could be claimed under clause 20(1)(1)(ii)(B) of the Act,

(ii) segregating particular types of loans or lending assets of the taxpayer referred to in subparagraph (i) into different classes based on the length of time that interest or principal payable to the taxpayer in respect thereof has been in arrears, and

(iii) determining the aggregate of all amounts each of which is the amount determined by multiplying the amortized cost to the taxpayer at the end of the year of loans or lending assets of a class described in subparagraph (ii) by the historical loss experience of the taxpayer in respect of that class.

8001. For the purposes of clause 20(1)(1)(ii)(B) and subparagraph 20(1)(1.1)(ii) of the Act, the prescribed recovery rate is 10%.

8002. For the purposes of section 8000, "historical loss experience" of a taxpayer in respect of a class of loans or lending assets means a reasonable percentage of the amortized cost to the taxpayer of the loans or lending assets of that class that is a representation of the prior years' losses net of recoveries in respect of those loans or lending assets.

PART LXXXI
TRANSITION FOR FINANCIAL INSTITUTIONS

8100.(1) Subject to subsection (6), for the purposes of section 12.3 of the Act, the prescribed amount of a taxpayer's net reserve inclusion for a taxation year ending after 1988 and commencing before 1993 is an amount equal to the aggregate of

(i) that proportion of 15% of the amount deducted by him under subsection 20(26) of the Act in computing his income for his first taxation year that commences after June 17, 1987 and ends after 1987 (in this section referred to as an "amount of net reserve adjustment") that the number of days in the year that are in 1989 is of 365,

(ii) that proportion of 25% of the amount of net reserve adjustment that the number of days in the year that are in 1990 or 1991 is of 365, and

(iii) that proportion of 35% of the amount of net reserve adjustment that the number of days in the year that are in 1992 is of 366.

(2) For the purposes of subsection (1), where a new corporation has been formed as a result of an amalgamation of two or more predecessor corporations, within the meaning of section 87 of the Act, and one or more of the predecessor corporations has an amount of net reserve adjustment, the new corporation shall be deemed to have an amount of net reserve adjustment equal to the aggregate of the amounts of net reserve adjustments of all the predecessor corporations.

(3) For the purposes of subsection (1), where there has been a winding-up as described in subsection 88(1) of the Act and the subsidiary referred to in that subsection has an amount of net reserve adjustment, the following rules apply in respect of the subsidiary and the parent of the subsidiary referred to in that subsection of the Act, in respect of the amount of net reserve adjustment of the subsidiary:

(a) the taxation year of the subsidiary shall be deemed to have ended immediately before the time when the property of the subsidiary was transferred to, and the obligations of the subsidiary were assumed by, the parent on the winding-up;

(b) the taxation year of the parent shall be deemed to have commenced immediately after the time referred to in paragraph (a);

(c) the parent shall, for taxation years commencing after the time referred to in paragraph (a), include in computing its amount of net reserve adjustment the amount of net reserve adjustment of the subsidiary determined without reference to paragraph (d); and

(d) the subsidiary shall, for taxation years commencing at or after the time referred to in paragraph (a), be deemed to have no amount of net reserve adjustment.

(4) For the purposes of subsection (1), where, by reason of subsection 98(6) of the Act, a new partnership referred to in that subsection is deemed to be a continuation of the predecessor partnership referred to therein and that predecessor partnership has an amount of net reserve adjustment, the following rules apply in respect of the new partnership and the predecessor partnership referred to in that subsection of the Act, in respect of the amount of net reserve adjustment of that predecessor partnership:

(a) the fiscal period of the predecessor partnership shall be deemed to have ended immediately before the time when the property of the predecessor partnership was transferred to, and the obligations of the predecessor partnership were assumed by, the new partnership;

(b) the fiscal period of the new partnership shall be deemed to have commenced immediately after the time referred to in paragraph (a);

(c) the new partnership shall, for fiscal periods ending after the time referred to in paragraph (a), include in computing its amount of net reserve adjustment the amount of net reserve adjustment of the predecessor partnership, determined without reference to paragraph (d); and

(d) the predecessor partnership shall, for fiscal periods commencing at or after the time referred to in paragraph (a), be deemed to have no amount of net reserve adjustment.

(5) For the purposes of subsection (1), where a non-resident insurer that carried on an insurance business in Canada has transferred that business pursuant to subsection 138(11.5) of the Act to another corporation and the non-resident insurer has an amount of net reserve adjustment, the following rules apply in respect of the non-resident insurer and the other corporation, in respect of the amount of net reserve adjustment of the non-resident insurer:

(a) the taxation year of the non-resident insurer shall be deemed to have ended immediately before the transfer of the business;

(b) the taxation year of the other corporation shall be deemed to have commenced immediately after the transfer of the business;

(c) the other corporation shall, for taxation years commencing after the transfer of the business, include in computing its amount of net reserve adjustment the amount of reserve adjustment of the non-resident insurer, determined without reference to paragraph (d); and

(d) the non-resident insurer shall, for taxation years commencing at or after the time of the transfer of the business, be deemed to have no amount of net reserve adjustment.

(6) Notwithstanding subsection (1), where a person or a partnership that has an amount of net reserve adjustment that can reasonably be attributed to a particular business discontinues or transfers that business, otherwise than pursuant to a transaction described in subsections (2) to (5), for the purposes of section 12.3 of the Act, the following rules apply in respect of the person or partnership in respect of that amount of net reserve adjustment:

(a) the prescribed amount of the person's or partnership's net reserve inclusion, for his taxation year in which he discontinued or transferred that business, in respect of that amount of net reserve adjustment reasonably attributable to that business shall be equal to the amount, if any, by which

(i) the amount of his net reserve adjustment reasonably attributable to that business

exceeds

(ii) the aggregate of all amounts each of which is an amount that was included under section 12.3 of the Act in computing his income for a preceding taxation year and that can reasonably be attributed to the amount of net reserve adjustment referred to in subparagraph (i); and

(b) the person or partnership shall, for taxation years commencing at or after the time of the discontinuance or the transfer of the business, be deemed to have no amount of net reserve adjustment in respect of that business.

8101.(1) For the purposes of subsection 20(26) of the Act, the prescribed amount of net reserve adjustment of a taxpayer means the amount, if any, by which

(a) the taxpayer's preliminary reserve adjustment

exceeds the aggregate of

(b) the total of all amounts each of which is a non-capital loss of the taxpayer for a taxation year before his first taxation year that commences after June 17, 1987 and ends after 1987 that is deductible under paragraph 111(1)(a) of the Act in computing his taxable income for his first taxation year that commences after June 17, 1987 and ends after 1987 or a subsequent taxation year,

(c) where the taxpayer is a bank to which the Bank Act or the Quebec Savings Banks Act applies, the total of

(i) that part of the total of the amounts of the five-year average loan loss experiences of the taxpayer, as determined, or as would be determined if such a determination were required, under the Minister's rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that was not deducted by the taxpayer under subsection 26(2) of the Act in computing its income for those taxation years,

(ii) that part of the total of the amounts transferred by the taxpayer to its tax allowable appropriations account, as permitted under the Minister's rules, for all taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987, that was not deducted by the taxpayer under subsection 26(2) of the Act in computing its income for those taxation years,

(iii) the amount by which

(A) the amount of the special provision for losses on transborder claims of the taxpayer, as determined, or as would be determined if such a determination were required, under the Minister's rules, that was deductible by the taxpayer under subsection 26(2) of the Act in computing its income for its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987,

exceeds

(B) that part of the amount described in clause (A) that was deducted in computing the income of the taxpayer for that last taxation year,

(iv) where the tax allowable appropriations account of the taxpayer at the end of its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987, as determined, or as would be determined if such a determination were required, under the Minister's rules, is a negative amount, such amount expressed as a positive number, and

(v) that part of the total of the amounts calculated in respect of the taxpayer for the purposes of the Minister's rules, or that would be calculated for the purposes of those rules if such a calculation were required, under Procedure 8 of the Procedures for the Determination of the Provision for Loan Losses (as set out in Appendix 1 to those rules), for taxation years before its first taxation year that commences after June 17, 1987 and ends after 1987 that was not deducted by the taxpayer under subsection 26(2) of the Act in computing its income for those taxation years, and

(d) the total of all amounts each of which is an amount in respect of depreciable property of a prescribed class of the taxpayer equal to the amount, if any, by which

(i) the amount that would have been deductible by the taxpayer under paragraph 20(1)(a) of the Act in computing his income for his last taxation year before his first taxation year that commences after June 17, 1987 and ends after 1987 with respect to that class if he had claimed the maximum allowable amount under that paragraph in that last taxation year with respect to that class

exceeds

(ii) the amount deducted by him under paragraph 20(1)(a) of the Act in computing his income for that last taxation year with respect to that class.

(2) For the purposes of subsection (1), "preliminary reserve adjustment" of a taxpayer means the aggregate of

(a) the amount, if any, by which

(i) the total of all amounts each of which is an amount deducted by the taxpayer under subparagraph 20(1)(l)(ii), subsection 33(1), paragraph 137(1)(a) or (b), 137.1(3)(c) or 138(3)(c) of the Act in computing his income for his last taxation year before his first taxation year that commences after June 17, 1987 and ends after 1987

exceeds the total of

(ii) the greater of

(A) the maximum amount that would have been deductible in computing his income for his last taxation year before his first taxation year that commences after June 17, 1987 and ends after 1987 under subparagraph 20(1)(l)(ii) or paragraph 20(1)(l.1) of the Act if those provisions had applied to that last taxation year and they were read as they read in their application to the taxpayer's first taxation year that commences after June 17, 1987 and ends after 1987, and

(B) that proportion of the amount determined under subparagraph (i) that

(I) the sum of the maximum amounts deductible by the taxpayer under subparagraph 20(1)(l)(ii) and paragraph 20(1)(l.1) of the Act in computing his income for his first taxation year that commences after June 17, 1987 and ends after 1987

is of

(II) the sum of the maximum amounts that would have been deductible by the taxpayer under subparagraph 20(1)(l)(ii), subsection 33(1), paragraphs 137(1)(a) and (b), 137.1(3)(c) and 138(3)(c) of the Act in computing his income for his first taxation year that commences after June 17, 1987 and ends after 1987 if those provisions had applied to that year and they were read as they read in respect of the immediately preceding taxation year, and

(iii) where the taxpayer is a credit union, the prescribed amount of its 1971 reserve adjustment;

(b) where the taxpayer is a bank to which the Bank Act or the Quebec Savings Banks Act applies, the amount, if any, by which

(i) the amount included under subsection 26(1) of the Act in computing its income for its first taxation year that commences after June 17, 1987 and ends after 1987

exceeds

(ii) the sum of the maximum amounts that would have been deductible in computing its income for its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987 under subparagraph 20(1)(l)(ii) and paragraph 20(1)(l.1) of the Act if those provisions had applied to that last taxation year and they were read as they read in their application to the taxpayer's first taxation year that commences after June 17, 1987 and ends after 1987; and

(c) where the taxpayer is an insurer, the amount, if any, by which the aggregate of

(i) the total of the amounts deducted under paragraph 20(7)(c) of the Act in respect of claims received and unpaid at the end of the year or subparagraph 138(3)(a)(i) or (iv) of the Act by the insurer in computing its income for its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987,

(ii) where the insurer is a life insurer, the total of the amounts deducted by the insurer in computing its income for its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987 in respect of claims made under insurance policies that were received before and unpaid at the end of that last taxation year, and

(iii) the amount included under subsection 140(2) of the Act in computing the insurer's income for its first taxation year that commences after June 17, 1987 and ends after 1987

exceeds the total of

(iv) the sum of the maximum amounts that would have been deductible under paragraph 20(7)(c) and subparagraphs 138(3)(a)(i), (ii) and (iv) of the Act in computing its income for its last taxation year before its first taxation year that commences after June 17, 1987 and ends after 1987 if those provisions had applied to that last taxation year and they were read as they read for its first taxation year that commences after June 17, 1987 and ends after 1987,

(v) the amount, if any, by which

(A) the greater of the amounts determined under clause (a)(ii)(A) or (B) in respect of the insurer

exceeds

(B) the amount determined under subparagraph (a)(i) in respect of the insurer, and

(vi) the prescribed amount of the insurer's 1968 reserve adjustment.

8102. For the purposes of this Part and paragraph 137(1)(c) of the Act, the prescribed amount of a credit union's 1971 reserve adjustment is the amount, if any, by which

(a) the sum of the amounts that the credit union was deemed under subsection 58(2) of the Income Tax Application Rules, 1971, as that subsection read in its application to the credit union's 1972 taxation year, to have deducted under paragraphs 137(1)(a) and (b) of the Act in computing its income for its 1971 taxation year

exceeds

(b) that proportion of the amount determined under paragraph (a) that

(i) the sum of the maximum amounts deductible by the credit union under subparagraph 20(1)(1)(ii) and paragraph 20(1)(1.1) of the Act in computing its income for its first taxation year that commences after June 17, 1987 and ends after 1987

is of

(ii) the sum of the maximum amounts that would have been deductible by the credit union under subparagraph 20(1)(1)(ii) and paragraphs 137(1)(a) and (b) of the Act in computing its income for its first taxation year that commences after June 17, 1987 and ends after 1987 if those provisions had applied to that year and they were read as they read in respect of the immediately preceding taxation year.

8103. For the purposes of this Part and paragraph 138(4)(a) of the Act, the prescribed amount of an insurer's 1968 reserve adjustment is an amount equal to the aggregate of

(a) the amount, if any, by which

(i) the total of amounts that would have been the insurer's maximum tax actuarial reserve for its 1968 taxation year if that reserve had been determined on the basis of the rules applicable to its 1978 taxation year

exceeds

(ii) the total of the amounts that would have been the insurer's maximum tax actuarial reserve for its 1968 taxation year if that reserve had been determined on the basis of the rules applicable to its first taxation year that commences after June 17, 1987 and ends after 1987;

(b) the amount, if any, by which

(i) the amount the insurer was deemed for the purposes of paragraph 68A(4)(a) of the Act, as it read in respect of the insurer's 1969 taxation year, to have deducted under subparagraph 68A(3)(a)(iv) of the Act as it read in respect of the insurer's 1969 taxation year in computing its income for its 1968 taxation year from carrying on its life insurance business in Canada in respect of policy dividends under its participating life insurance policies

exceeds

(ii) the maximum amount that would have been deductible under subparagraph 138(3)(a)(iv) of the Act in computing its income for the 1968 taxation year if that subparagraph had applied to that year and it were read as it read in respect of the insurer's first taxation year that commences after June 17, 1987 and ends after 1987; and

(c) the amount, if any, by which

(i) the amount that the insurer was deemed for the purposes of paragraph 68A(4)(a) of the Act, as it read in respect of the insurer's 1969 taxation year, to have deducted under paragraph 68A(3)(c) of the Act as it read in respect of the insurer's 1969 taxation year in computing its income for its 1968 taxation year from carrying on its life insurance business in Canada

exceeds

(ii) that proportion of the amount determined under subparagraph (i) that

(A) the sum of the maximum amounts deductible by the insurer under subparagraph 20(1)(l)(ii) and paragraph 20(1)(l.1) of the Act in computing its income for its first taxation year that commences after June 17, 1987 and ends after 1987

is of

(B) the maximum amount that would have been deductible by the insurer under paragraph 138(3)(c) of the Act in computing its income for its first taxation year that commences after June 17, 1987 and ends after 1987 if that paragraph had applied to that year and it were read as it read in respect of the immediately preceding taxation year.

8104. For the purposes of this Part, where

(a) a particular corporation has been formed as a result of the amalgamation of two or more predecessor corporations within the meaning of section 87 of the Act,

(b) one or more subsidiaries of a particular corporation have been wound-up into the particular corporation pursuant to subsection 88(1) of the Act, or

(c) a non-resident insurer that carried on an insurance business in Canada has transferred that business to a particular corporation in a transaction to which subsection 138(11.5) of the Act applied,

the particular corporation shall be deemed to be the same corporation as, and a continuation of, the predecessor corporations, the subsidiary or the non-resident insurer, as the case may be.

8105. For the purposes of this Part,

"maximum tax actuarial reserve" has the meaning assigned by paragraph 138(12)(h) of the Act;

"Minister's rules" has the meaning assigned by subsection 26(4) of the Act.

5.(1) Sections 1 and 2 are applicable to taxation years that commence after June 17, 1987 and end after 1987.

(2) Sections 3 and 4 are applicable to taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

Appendix III

Draft Income Tax Regulations: Insurance Corporations

Appendix III

Draft Income Tax Regulations -
Insurance Corporations

1. Section 801 of the Income Tax Regulations is revoked and the following substituted therefor:

> "801. For the purposes of subsection 215(4) of the Act, where a taxpayer is a registered non-resident insurer in a taxation year, the taxpayer shall file a return in respect thereof in prescribed form with the Minister within the six-month period immediately following the end of the year."

2. Paragraph 1400(e) of the said Regulations is revoked and the following substituted therefor:

> "(e) a policy where an event has occurred before the end of the year that has given or is likely to give rise to a claim under the policy (in this paragraph referred to as "the liability") and
>
> > (i) where the amount of the reserve in respect of the liability (other than a liability referred to in subparagraph (iii)) reported by the corporation in its annual report for the year to the relevant authority or, where the corporation was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, in its financial statements for the year was computed as the present value as at the end of the year of the amount of the liability, such amount as it may claim not exceeding the lesser of
> >
> > > (A) a reasonable amount in respect of the present value of the liability as at the end of the year, and
> > >
> > > (B) 95% of the amount of the reserve in respect of the liability reported by the corporation in its annual report or financial statements, as the case may be;

(ii) where the amount of the reserve in respect of the liability (other than a liability referred to in subparagraph (iii)) reported by the corporation in its annual report for the year to the relevant authority or, where the corporation was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, in its financial statements for the year was not computed as the present value as at the end of the year of the liability, such amount as it may claim not exceeding the lesser of

(A) a reasonable amount in respect of the liability (other than the present value thereof) as at the end of the year, and

(B) an amount in respect of the liability as at the end of the year determined by the formula

$$A - 1/3 (A - B)$$

where

A is the lesser of a reasonable amount in respect of the liability (other than the present value thereof) as at the end of the year and the amount of the reserve in respect of the liability reported by the corporation in the annual report or financial statements, as the case may be, and

B is the present value of the amount in respect of the liability as at the end of the year, computed using an interest rate that was reasonable in the circumstances; and

(iii) where the liability is in respect of a structured settlement in respect of damages for personal injury or death, such amount as the corporation may claim not exceeding the present value amount of the reserve in respect of the liability reported by the corporation in its annual report for the year to the relevant authority or, where the corporation was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, in its financial statements for the year;"

3.(1) Paragraph 1401(1)(a) of the said Regulations is revoked and the following substituted therefor:

> "(a) deposit administration fund policies, such amount as the insurer may claim that is a reasonable amount in respect of the aggregate of the insurer's liabilities under the policies as at the end of the year and does not exceed the aggregate of the insurer's liabilities under those policies calculated in the manner required for the purposes of the insurer's annual report to the relevant authority for the year or, where the insurer was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, in its financial statements for the year;"

(2) Subparagraph 1401(1)(d)(xi) of the said Regulations is revoked and the following substituted therefor:

> "(xi) the reserve in respect of the benefit, risk or guarantee, reported by the insurer in its annual report to the relevant authority for the year or, where the insurer was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, in its financial statements for the year;"

(3) Section 1401 of the said Regulations is further amended by adding thereto the following subsections:

> "(3) In computing the amount that a life insurer may deduct under subparagraph 138(3)(a)(i) of the Act in computing its taxable income for a taxation year, there shall be deducted from the aggregate of the amounts determined under subsection (1), the aggregate of all amounts each of which is the lesser of the following amounts determined in respect of a life insurance policy referred to in paragraph (1)(c)
>
> (a) the amount, if any, by which
>
> (i) the amount that would be determined under subclause (1)(c)(i)(B) in respect of the policy
>
> exceeds
>
> (ii) the amount that would be determined under subclause (1)(c)(i)(A) in respect of the policy, and

(b) the amount, if any, by which

(i) the aggregate of the amounts that would be determined under subclauses (1)(c)(ii)(B) and (C) in respect of the policy

exceeds

(ii) the amount that would be determined under subclause (1)(c)(ii)(A) in respect of the policy.

(4) For the purposes of subparagraph 138(3)(a)(ii) of the Act, a life insurer may, in computing its income for a taxation year, deduct an amount as a reserve in respect of unpaid claims under life insurance policies in Canada at the end of the year received by the insurer before the end of the year equal to the present value at the end of the year, computed using a rate of interest that is reasonable in the circumstances, of the amount of such claims."

4. The definition "modified net premium" in subsection 1404(2) of the said Regulations is revoked and the following substituted therefor:

"modified net premium" in respect of a particular premium under a policy (other than a prepaid premium under a policy that cannot be refunded except on termination or cancellation of the policy) means that proportion of the premium that

(a) the aggregate of

(i) the present value, at the date of the issue of the policy, of the benefits to be provided under the terms of the policy after a time that is one year after the date of the issue of the policy, and

(ii) the present value, at the date of the issue of the policy, of the benefits to be provided under the terms of the policy after a time that is two years after the date of the issue of the policy,

is of

(b) the aggregate of

(i) the present value, at the date of issue of the policy, of the premiums payable under the terms of the policy on or after a time that is one year after the date of the issue of the policy, and

(ii) the present value, at the date of issue of the policy, of the premiums payable under the terms of the policy on or after a time that is two years after the date of issue of the policy,

where benefits (other than policy dividends) and premiums (other than the frequency of payment thereof) in respect of the policy are determined at the date of issue of the policy and, where the benefits or premiums in respect of the policy are not determined at the date of issue of the policy, the modified net premium is the amount that would be determined under this definition if it were adjusted in a manner that is reasonable in the circumstances, except that

(c) in respect of the second year of the policy, the modified net premium is 1/2 of the aggregate of

(i) the amount of the modified net premium that would be determined under this definition if it were read without reference to this paragraph, and

(ii) the amount of a one-year term insurance premium (determined without regard to the frequency of payment thereof) that would be payable under the policy."

5. Section 2400 of the said Regulations is revoked and the following substituted therefor:

"2400.(1) For the purposes of paragraph 138(12)(l) of the Act, "property used by it in the year in, or held by it in the year in the course of" carrying on an insurance business in Canada (in this Part referred to as the "particular insurance business") means the property (in this Part referred to as "insurance property") of an insurer that is designated or required to be designated by the insurer in respect of a taxation year and, for this purpose, the following rules apply:

(a) such investment property owned by the insurer at the beginning of the year that was insurance property in respect of another insurance business in Canada in the immediately preceding taxation year and was used by it in the year in, or held by it in the year in the course of (determined without reference to this subsection), carrying on the particular insurance business shall be designated by the insurer in respect of the particular insurance business for the year;

(b) where the amount of the insurer's mean Canadian reserve liabilities for the year in respect of the particular insurance business exceeds the total of

(i) the aggregate value for the year of all investment property of the insurer required to be designated by the insurer under paragraph (a) in respect of the particular insurance business for the year,

(ii) where the particular insurance business is a life insurance business in Canada, the mean policy loans of the insurer for the year, and

(iii) where the particular insurance business is a property and casualty insurance business in Canada, 1/2 of the total of

(A) the aggregate of all amounts each of which is an amount of a deferred acquisition expense or a premium receivable (to the extent included in the insurer's Canadian reserve liabilities) of the insurer in respect of that insurance business in Canada as determined for the purposes of the relevant authority at the end of the immediately preceding taxation year, and

(B) the aggregate of all amounts each of which is an amount of a deferred acquisition expense or a premium receivable (to the extent included in the insurer's Canadian reserve liabilities) of the insurer in respect of that insurance business in Canada as determined for the purposes of the relevant authority at the end of the year,

such investment property (other than investment property designated by the insurer pursuant to paragraph (a) in respect of another insurance business in Canada of the insurer for the year) owned by the insurer at the beginning of the year that was insurance property in respect of the particular insurance business in the immediately preceding taxation year the value for the year of which is not less than the amount of that excess shall be designated by the insurer in respect of the particular insurance business for the year;

(c) where

(i) the amount of the excess determined under paragraph (b) in respect of the particular insurance business for the year

exceeds

(ii) the aggregate value for the year of insurance property in the immediately preceding taxation year in respect of the particular insurance business required to be designated by the insurer pursuant to paragraph (b) in respect of the particular insurance business for the year,

such investment property (other than investment property designated or required to be designated by the insurer under paragraph (a) or (b) for the year) owned by the insurer at any time in the year the value for the year of which is not less than the amount of that excess shall be designated by the insurer in respect of the particular insurance business for the year;

(d) where

(i) the amount of the insurer's Canadian investment fund for the year

exceeds

(ii) the aggregate value for the year of all investment property designated or required to be designated by the insurer under paragraphs (a), (b) and (c) in respect of all insurance businesses in Canada for the year,

such investment property (other than investment property designated or required to be designated by the insurer under paragraph (a), (b) or (c) for the year) owned by the insurer at any time in the year the value for the year of which is not less than the amount of that excess shall be designated by the insurer in respect of a particular insurance business for the year;

(e) such non-segregated property or portion thereof (other than investment property) owned by the insurer at any time in the year and used by it in the year in, or held by it in the year in the course of (determined without reference to this subsection), carrying on an insurance business in Canada shall be designated by the insurer for the year; and

(f) where the insurer has failed to designate property required to be designated for the year under paragraphs (a) to (e), notwithstanding subsection (5), such property owned by the insurer at any time in the year may be designated by the Minister on behalf of the insurer for the purposes of those paragraphs and the property so designated by the Minister shall be deemed to have been designated by the insurer for the year, except that the aggregate value for the year of the property so designated shall not exceed that required to be designated by the insurer under those paragraphs.

(2) For the purposes of this section, where in a taxation year an insurer carries on a life insurance business in Canada and an insurance business in Canada other than a life insurance business (in this Part referred to as the "other than life insurance business"), the following rules apply:

(a) paragraphs (1)(a), (b) and (c) shall be applied in designating the insurance property of the insurer in respect of its other than life insurance business before they are applied in designating the insurance property of the insurer in respect of its life insurance business;

(b) property that is designated under subsection (1) in respect of an insurance business of the insurer for a taxation year shall not be designated in respect of another insurance business of the insurer for the year; and

(c) investment property that is designated in respect of an insurance business of the insurer for a taxation year pursuant to paragraph (1)(d) or (f) shall,

(i) where paragraph (1)(d) is applicable, be designated in respect of the insurance business in Canada of the insurer as specified by the insurer for the year, and

(ii) where paragraph (1)(f) is applicable, be designated in respect of the insurance business in Canada of the insurer as specified by the Minister for the year.

(3) For the purposes of subsection (1), property acquired by an insurer in a taxation year by reason of

(a) a transaction described in section 51, 77, 85.1 or 86 of the Act;

(b) a transaction in respect of which an election was made under subsection 85(1) or (2) of the Act;

(c) an amalgamation of two or more corporations (within the meaning assigned by subsection 87(1) of the Act); or

(d) a winding-up of a corporation (to which subsection 88(1) of the Act applied),

as consideration for or in exchange for property of the insurer that was, in respect of the year, insurance property in respect of a particular insurance business in the immediately preceding taxation year shall be deemed to be insurance property in respect of that particular insurance business in that immediately preceding taxation year.

(4) Notwithstanding subsection (1) or (6), the aggregate value for the year of Canadian equity property that may be designated in respect of all the insurer's insurance businesses in Canada for a taxation year shall not exceed the insurer's equity limit for the year.

(5) Where a property was owned by the insurer throughout any period in a taxation year and throughout that period the property was used by the insurer in, or held by the insurer in the course of, carrying on an insurance business outside Canada, the property may not be designated by the insurer under subsection (1) for the year in respect of an insurance business in Canada of the insurer.

(6) For the purposes of subsection (1), investment property of the insurer shall be designated by the insurer in respect of a taxation year in respect of its insurance businesses in Canada in the following order to the extent thereof and to the extent required:

(a) investment property owned by the insurer at any time in the year that was designated in respect of an insurance business in Canada of the insurer in the immediately preceding taxation year;

(b) investment property (other than an investment property referred to in paragraph (a)) owned by the insurer at any time in the year that was Canadian investment property except that such investment property shall be designated in the following order:

(i) land and depreciable property situated in Canada,

(ii) mortgages, hypothecs, agreements of sale and other forms of indebtedness in respect of property referred to in subparagraph (i), and

(iii) other property; and

(c) subject to subsection (5), other investment property owned by the insurer at any time in the year.

(7) The insurer or the Minister may designate for a taxation year a portion of a particular investment property pursuant to paragraph (1)(b),(c), (d) or (f) where the designation of the entire investment property would result in a designation of investment property with an aggregate value for the year exceeding that required to be designated by the insurer pursuant to subsection (1)."

6.(1) The definitions "Canadian equity property", "Canadian investment fund for the year", "Canadian reserve liabilities", "designated corporation", "equity limit for the year", "equity property", "gross Canadian life investment income" and "property of the insurer in the course of development" in subsection 2405(3) of the said Regulations are revoked and the following substituted therefor in alphabetical order within the subsection:

""Canadian equity property" means

(a) a share of the capital stock of, or an income bond, income debenture, small business development bond or a small business bond issued by, a person (other than a designated corporation) or partnership, as the case may be, resident in Canada, or

(b) that proportion of shares of the capital stock of a designated corporation or an interest in a partnership or trust that

(i) the aggregate value for the year of Canadian equity property owned by the designated corporation or the partnership or trust, as the case may be,

is of

(ii) the aggregate value for the year of all property owned by the designated corporation or the partnership or trust, as the case may be;

"Canadian investment fund for the year", for a taxation year in respect of a life insurer resident in Canada and a non-resident insurer means the amount determined under section 2412;

"Canadian reserve liabilities" of an insurer, as at the end of a taxation year, means the aggregate amount of the insurer's liabilities and reserves (other than liabilities and reserves in respect of amounts payable out of segregated funds) in respect of its insurance policies in Canada, as determined for the purposes of the relevant authority at the end of the year or as would be determined at that time if the relevant authority required such a determination;

"designated corporation", in respect of an insurer, at any time in a taxation year, means a corporation in respect of which the insurer or the insurer and persons or partnerships that do not deal at arm's length with the insurer held, at any time in the year, shares that represented 30 per cent or more of the common shares of the corporation outstanding at that time;

"equity limit for the year" for a taxation year means

(a) in respect of a life insurer resident in Canada, the greater of

(i) that proportion of the aggregate value for the year of all the insurer's equity property that

(A) the amount, if any, by which the insurer's mean Canadian reserve liabilities exceed the insurer's mean policy loans for the year

is of

(B) the amount, if any, by which the insurer's mean total reserve liabilities exceed the insurer's mean policy loans and foreign policy loans for the year, and

(ii) 8 per cent of the insurer's Canadian investment fund for the year,

(b) in respect of a non-resident insurer (other than a life insurer), 1/4 of the aggregate of

(i) the amount, if any, by which the insurer's mean Canadian reserve liabilities exceed 1/2 of the aggregate of the amounts of the insurer's deferred acquisition expenses and premiums receivable at the end of the year and the immediately preceding year to the extent that those amounts were included in the insurer's Canadian reserve liabilities for those years, and

(ii) the insurer's property and casualty surplus for the year, and

(c) in respect of a non-resident life insurer, the aggregate of

(i) the insurer's life equity limit for the year, and

(ii) 1/4 of the aggregate of

(A) the amount, if any, by which the insurer's mean Canadian reserve liabilities for the year exceed 1/2 of the aggregate of the amounts of the insurer's deferred acquisition expenses and premiums receivable at the end of the year and the immediately preceding year to the extent that those amounts were included in the insurer's Canadian reserve liabilities for those years (determined on the assumption that the only insurance business carried on in Canada by the insurer was a property and casualty insurance business), and

(B) the insurer's property and casualty surplus for the year;

"equity property" means

(a) a share of the capital stock of, or an income bond, income debenture, small business development bond or small business bond issued by, a person (other than a designated corporation) or partnership, as the case may be, or

(b) that proportion of shares of the capital stock of a designated corporation or an interest in a partnership or trust that

(i) the aggregate value for the year of equity property owned by the designated corporation or the partnership or trust, as the case may be,

is of

(ii) the aggregate value for the year of all property owned by the designated corporation or the partnership or trust, as the case may be;

"gross Canadian life investment income" of a life insurer for a taxation year means the amount, if any, by which the aggregate of

(a) the insurer's gross investment revenue for the year to the extent that that revenue is from non-segregated property of the insurer used by it in the year in, or held by it in the year in the course of, carrying on its life insurance business in Canada,

(b) the amount included in computing the insurer's income for the year under paragraph 138(9)(b) of the Act,

(c) the amounts included in computing the insurer's income for the year under paragraphs 138(4)(b) and (c) of the Act,

(d) that portion of the amount included in computing the insurer's income for the year under paragraph 12(1)(d) of the Act in respect of amounts deducted in computing the insurer's income under paragraph 20(1)(l) of the Act in the immediately preceding taxation year in respect of a Canada security (within the meaning assigned by paragraph 138(12)(c) of the Act) owned by the insurer, and

(e) the amount deducted in computing the insurer's income for the immediately preceding taxation year under paragraph 138(3)(c) of the Act

exceeds the aggregate of

(f) the amounts deducted in computing the insurer's income for the year under paragraphs 138(3)(b) and (d) of the Act, and

(g) the amount deducted in computing the insurer's income for the year under paragraph 20(1)(l) of the Act in respect of a Canada security (within the meaning assigned by paragraph 138(12)(c) of the Act) owned by the insurer;"

(2) Paragraph (a) of the definition "Canadian investment fund" in subsection 2405(3) of the said Regulations is revoked and the following substituted therefor:

"(a) a life insurer resident in Canada, means the positive amount determined by the formula

$$\left[\frac{A}{B}(C - D)\right] - E$$

where

A is the amount of the insurer's Canadian reserve liabilities as at the end of the year,

B is the amount of the insurer's total reserve liabilities as at the end of the year,

C is the total of

(i) the aggregate amount of policy loans and foreign policy loans of the insurer as at the end of the year, and

(ii) the valuation of all property of the insurer as at the end of the year each of which is

(A) an investment property,

(B) money, or

(C) a balance (other than a property included under (A) or (B)) standing to the insurer's credit as or on account of amounts deposited with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee,

D is the total of

(i) the aggregate of all amounts each of which is an amount outstanding as at the end of the year in respect of a debt (other than a debt referred to in paragraph (h) of the definition "valuation" in this subsection) owing by the insurer in respect of money borrowed by the insurer (other than money used by the insurer for the purpose of earning income from a source that is not an insurance business), and

(ii) the aggregate of all amounts each of which is the amount of a cheque drawn before the end of the year on an account of the insurer maintained with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee, and

E is the aggregate amount of the policy loans of the insurer as at the end of the year, and"

(3) Subparagraph (b)(iii) of the definition "Canadian investment fund" in subsection 2405(3) of the said Regulations is revoked and the following substituted therefor:

> "(iii) the amount of policy dividends, to the extent that such dividends were not included under subparagraph (i) or (ii), that will, according to the annual report of the insurer filed with the relevant authority for the year or, where the insurer was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, according to its financial statements for the year, as at the end of the year, become payable by the insurer in the immediately following year under its participating life insurance policies,"

(4) Subparagraph (b)(vii) of the definition "Canadian investment fund" is revoked and the following substituted therefor:

> "(vii) the aggregate valuation of all non-segregated property (other than a share of or a debt owing to the insurer by a designated corporation unless it is established by the insurer that the share or the debt is effectively connected with its Canadian insurance businesses) referred to in paragraph 2400(1)(e) at the end of the year in respect of all the insurer's insurance businesses carried on in Canada other than property that is
>
> > (A) money, or
> >
> > (B) a balance standing to the insurer's credit as or on account of amounts deposited with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee, and"

(5) Paragraph (c) of the definition "investment property" in subsection 2405(3) of the said Regulations is revoked and the following substituted therefor:

> "(c) the portion, if any, of property of the insurer that is not used in the year for the purpose of earning gross investment revenue that is
>
> > (i) land,

(ii) depreciable property, or

(iii) property that would be depreciable property if it had been situated in Canada and used in the year in, or held in the year in the course of, carrying on an insurance business in Canada

to the extent that the property is held for resale or development or is expected to be used in a subsequent taxation year for the purpose of earning gross investment revenue, or"

(6) Paragraph (c) of the definition "life equity limit" in subsection 2405(3) of the said Regulations is revoked and the following substituted therefor:

"(c) in any other case, 8 per cent of the amount of the insurer's Canadian investment fund for the year;"

(7) Subclause (a)(i)(B)(I) of the definition "life surplus factor" in subsection 2405(3) of the said Regulations is revoked and the following substituted therefor:

"(I) the aggregate of amounts described in subparagraphs (b)(i), (b)(ii), (b)(iii) and (b)(v) of the definition "Canadian investment fund" in this subsection in respect of a non-resident insurer, as at the end of the year, and"

(8) Paragraph (a) of the definition "value for the year" in subsection 2405(3) of the said Regulations is revoked and the following substituted therefor:

"(a) a property that is a mortgage, hypothec, agreement of sale or an investment property that is a balance standing to the insurer's credit as or on account of amounts deposited with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee, the amount, if any, by which

(i) the amount obtained when the gross investment revenue for the year from the property is divided by the average rate of interest earned by the owner (expressed as an annual rate) on the amortized cost of the property during the year if that rate of interest were expressed as a fraction

exceeds

(ii) the amount obtained when the interest paid or payable for the year on a debt incurred for the purposes of acquiring the property is divided by the average rate of interest paid or payable by the owner (expressed as an annual rate) on the debt for the year if that rate of interest were expressed as a fraction,"

(9) The definition "valuation" in subsection 2405(3) of the said Regulations is amended by adding thereto, immediately after paragraph (e) thereof, the following paragraph:

"(e.1) a balance standing to the owner's credit as or on account of amounts deposited with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee, the amount thereof,"

(10) Subsection 2405(3) of the said Regulations is amended by adding thereto, in alphabetical order within the subsection, the following definitions:

""Canadian investment property" of an insurer for a taxation year means an investment property (unless the insurer is a non-resident insurer and it is established by the insurer that the investment property is not effectively connected with its Canadian insurance businesses) that is

(a) real property situated in Canada,

(b) a Canadian equity property,

(c) a mortgage, hypothec, agreement of sale or any other form of indebtedness in respect of property referred to in paragraph (a), or

(d) a bond or debenture denominated in Canadian currency issued by

(i) a person or partnership resident in Canada,

(ii) the Government of Canada,

(iii) a government of a province or territory of Canada, or

(iv) any other political subdivision of Canada or of any province or territory of Canada;

"foreign policy loan" means an amount advanced at a particular time by an insurer to a policyholder in accordance with the terms and conditions of a life insurance policy other than a life insurance policy in Canada;

"mean policy loans" of an insurer for a taxation year means 1/2 of the aggregate of

(a) the insurer's policy loans as at the end of the year, and

(b) the insurer's policy loans as at the end of the immediately preceding taxation year;

"mean policy loans and foreign policy loans" of an insurer for a taxation year means 1/2 of the aggregate of

(a) the insurer's policy loans and foreign policy loans as at the end of the year, and

(b) the insurer's policy loans and foreign policy loans as at the end of the immediately preceding taxation year;"

7. Section 2409 of the said Regulations is amended by adding thereto the following subsection:

"(4) For the purposes of applying the provisions of this Part, except as expressly otherwise provided therein, where the expression "immediately preceding taxation year" refers to the 1987 taxation year, this Part shall be read as though the definitions therein applied to the insurer's 1987 taxation year."

8. Part XXIV of the said Regulations is further amended by adding thereto the following sections:

"2410.(1) The amount prescribed for the purposes of subsection 138(4.4) of the Act shall be computed for a taxation year as the aggregate of all amounts each of which is the specified percentage for the year of the amount determined, in respect of a property for a period in the year referred to in subsection 138(4.4) of the Act, by the formula

$$[(A \times B) \times \frac{C}{D} \times \frac{E}{365}] - F$$

where

A is the average annual rate of interest determined by reference to rates of interest prescribed in section 4301 for the months or portion thereof in the period, B is the amount, if any, by which, the average cost or average capital cost, as the case may be, of the property for the period exceeds the average amount of debt relating to the acquisition of the property outstanding during the period that bears a fair market interest rate and, for this purpose,

(a) the average cost or average capital cost, as the case may be, of a property is the total of

(i) the aggregate of all amounts each of which is the cost or capital cost, as the case may be, if any, immediately before the beginning of the period in respect of the property, and

(ii) the aggregate of all amounts each of which is the proportion of any expenditure incurred on any day in the period in respect of the cost or capital cost, as the case may be, of the property that

(A) the number of days from that day to the end of the period,

is of

(B) the number of days in the period, and

(b) the average amount of debt relating to the acquisition of a property is the amount, if any, by which the total of

(i) the aggregate of all amounts each of which is an indebtedness relating to the acquisition that was outstanding at the beginning of the period, and

(ii) the aggregate of all amounts each of which is the proportion of an indebtedness relating to the acquisition that was incurred on any day in the period that

(A) the number of days from that day to the end of the period,

is of

(B) the number of days in the period,

exceeds

(iii) the aggregate of all amounts each of which is the proportion of an amount that was paid in respect of any indebtedness referred to in subparagraphs (i) or (ii) on any day in the period (other than payment of interest in respect thereof) that

(A) the number of days from the beginning of the period to that day,

is of

(B) the number of days in the period,

C is the amount, if any, by which the Canadian reserve liabilities of the life insurer at the end of a taxation year that includes the period exceed the aggregate of the policy loans and the premiums receivable under life insurance policies in Canada of the insurer at the end of the year to the extent that those premiums are included in such Canadian reserve liabilities,

D is

(a) where the insurer is a life insurer that does not carry on an insurance business outside Canada, the amount, if any, by which

(i) the valuation of all property that is owned by the insurer at the end of the taxation year that includes the period and that is

(A) an investment property,

(B) money, or

(C) a balance (other than a property included under (A) or (B)) standing to the insurer's credit as or on account of amounts deposited with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee,

exceeds the total of

(ii) the aggregate of all amounts each of which is an amount outstanding at the end of the year in respect of a debt (other than a debt referred to in paragraph (h) of the definition "valuation" in subsection 2405(3)) owing by the insurer in respect of money borrowed by the insurer (other than money used by the insurer for the purpose of earning income from a source that is not an insurance business), and

(iii) the aggregate of all amounts each of which is the amount of a cheque drawn before the end of the year on an account of the insurer maintained with a corporation authorized to accept deposits or to carry on the business of offering to the public its services as a trustee, or

(b) where the insurer is a life insurer not referred to in paragraph (a), the amount of the insurer's Canadian investment fund as at the end of the taxation year that includes the period,

E is the aggregate of the number of days in the period, and

F is the amount, if any, of the life insurer's net income for the taxation year derived from the property.

(2) The specified percentage for a taxation year in respect of an amount determined in respect of property under subsection (1) for a taxation year means the aggregate of

(a) that proportion of 20 per cent that the number of days in the taxation year that are after 1987 and before 1989 is of the number of days in the taxation year;

(b) that proportion of 40 per cent that the number of days in the taxation year that are after 1988 and before 1990 is of the number of days in the taxation year;

(c) that proportion of 60 per cent that the number of days in the taxation year that are after 1989 and before 1991 is of the number of days in the taxation year;

(d) that proportion of 80 per cent that the number of days in the taxation year that are after 1990 and before 1992 is of the number of days in the taxation year; and

(e) that proportion of 100 per cent that the number of days in the taxation year that are after 1991 is of the number of days in the taxation year.

2411.(1) Subject to subsection (2), the amount prescribed in respect of an insurer for a taxation year for the purposes of paragraph 138(9)(b) of the Act shall be the amount determined by the formula

$$A - (B + C)$$

where

A is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under subsection (3),

B is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under subsection (4) in respect of investment property designated by the insurer for the year pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada, and

C is the amount claimed by the insurer for the year in respect of any balance of its cumulative excess account at the end of the year.

(2) Where the amount computed under subsection (1) in respect of an insurer is a negative amount, that amount shall be deemed to be nil.

(3) The positive or negative amount, as the case may be, determined under this subsection in respect of an insurer for a taxation year shall be the amount determined by the formula

$$\left(\frac{A}{B} \times C\right) + \left(\frac{D}{E} \times F\right) + \left(\frac{G}{H} \times J\right)$$

or, where the value for the year of foreign investment property designated by the insurer for the year pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada is not greater than 5 per cent of the amount of the Canadian investment fund for the year of the insurer and the insurer so elects, the amount determined by the formula

$$\left[\frac{A}{B} \times (C + J)\right] + \left(\frac{D}{E} \times F\right)$$

where

A is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under subsection (4) in respect of Canadian investment property (other than Canadian equity property) owned by the insurer at any time in the year,

B is the total value for the year of Canadian investment property (other than Canadian equity property) owned by the insurer at any time in the year,

C is the total value for the year of Canadian investment property (other than Canadian equity property) designated by the insurer for the year pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada,

D is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under subsection (4) in respect of Canadian investment property that is Canadian equity property owned by the insurer at any time in the year,

E is the total value for the year of Canadian investment property that is Canadian equity property owned by the insurer at any time in the year,

F is the total value for the year of Canadian investment property that is Canadian equity property designated by the insurer for the year pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada,

G is the positive or negative amount, as the case may be, determined in respect of the insurer for the year under subsection (4) in respect of foreign investment property owned by the insurer at any time in the year,

H is the total value for the year of foreign investment property owned by the insurer at any time in the year, and

J is the total value for the year of foreign investment property designated by the insurer for the year pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada.

(4) The positive or negative amount, as the case may be, determined under this subsection in respect of an insurer for a taxation year in respect of property shall be the amount determined by the formula

A - B

where

A is the aggregate of the following amounts determined in respect of the property for the year or that would be determined in respect of the property for the year if it were designated by the insurer pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada:

(a) the insurer's gross investment revenue for the year (other than taxable dividends that were or would be deductible in computing the insurer's taxable income for the year under subsection 138(6) of the Act) derived from the property,

(b) all amounts that were or would be included in computing the insurer's income for the year under paragraph 138(4)(c) of the Act in respect of the property,

(c) all amounts that were or would be included in computing the insurer's taxable capital gains for the year from the disposition of the property,

(d) all amounts that were or would be included in computing the insurer's gains (other than taxable capital gains) for the year from the disposition of the property,

(e) all amounts that were or would be included in computing the insurer's income for the year under subsection 13(1) of the Act in respect of the property, and

(f) all amounts that were or would be included in computing the insurer's income for the year under paragraph 12(1)(d) of the Act in respect of the property, and

B is the aggregate of the following amounts determined in respect of the property for the year or that would be determined in respect of the property for the year if it were designated by the insurer pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada:

(a) all amounts that were or would be included in computing the insurer's allowable capital losses for the year from the disposition of the property,

(b) all amounts that were or would be included in computing the insurer's losses (other than capital losses) for the year from the disposition of the property,

(c) all amounts that were or would be deductible in computing the insurer's income for the year under paragraph 138(3)(d) of the Act in respect of the property,

(d) all amounts that were or would be deductible in computing the insurer's income for the year under paragraphs 20(1)(a) and (d) of the Act in respect of the capital cost of the property or under paragraph 20(1)(c) of the Act in respect of interest paid or payable on borrowed money used to acquire the property,

(e) where any such property is rental property (within the meaning assigned by subsection 1100(14)), all amounts that were or would be deductible in computing the insurer's income for the year in respect of expenses directly related to the earning of rental income derived from the property,

(f) all amounts that were or would be deductible by the insurer in computing the insurer's income for the year under paragraph 20(1)(l) of the Act as a reserve for doubtful debts in respect of the property, and

(g) all amounts that were or would be deductible in computing the insurer's income for the year in respect of other expenses directly related to the earning of gross investment revenue derived from the property.

(5) For the purposes of subsection (4), a property that has not been designated by the insurer for the year pursuant to subsection 2400(1) as investment property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada shall be deemed to be a property used by it in the year in, or held by it in the year in the course of, carrying on that insurance business in respect of which the property has been reported by the insurer in its annual report for the year

to the relevant authority or, where the insurer was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, that insurance business in respect of which the property would have been reported by the insurer in an annual report for the year if it had so been required by the relevant authority.

(6) For the purposes of subsection (1), the balance of an insurer's cumulative excess account at the end of a taxation year shall be determined as the amount, if any, by which

(a) the aggregate of all amounts each of which is a positive amount, if any, determined in respect of each of such of its 7 immediately preceding taxation years that commenced after June 17, 1987 and ended after 1987 by the formula

$$B - A$$

where A and B are the amounts determined under subsection (1) in respect of the insurer for the immediately preceding taxation year

exceeds

(b) the aggregate of all amounts each of which is an amount claimed by the insurer under subsection (1) in respect of its cumulative excess account for a preceding taxation year that can be attributed to a positive amount determined under paragraph (a) for that year and, for the purpose of this paragraph, a positive amount determined in respect of a taxation year shall be deemed to have been claimed before a positive amount determined in respect of any subsequent taxation year.

(7) For the purposes of this section, "foreign investment property" of an insurer means investment property of the insurer (unless the insurer is a non-resident insurer and it is established by the insurer that the investment property is not effectively connected with its Canadian insurance businesses) that is not Canadian investment property of the insurer.

2412.(1) The amount of the Canadian investment fund for the year for a taxation year in respect of an insurer shall be determined by the formula

$$A + B$$

where

A is the mean Canadian investment fund for the year for the taxation year in respect of the insurer, and

B is the amount determined under subsection (2) in respect of the insurer for the taxation year.

(2) Subject to subsection (3), the amount determined under this subsection in respect of an insurer for the taxation year shall be determined by the formula

$$1/2 \left[A - \frac{(B + 3C + 5D + 7E)}{F} \right]$$

where

A is the aggregate of B, C, D and E,

B is the positive or negative amount, as the case may be, determined under subsection (4) in respect of the insurer for the first 3-month period in the taxation year of the insurer,

C is the positive or negative amount, as the case may be, determined under subsection (4) in respect of the insurer for the second 3-month period in the taxation year of the insurer,

D is the positive or negative amount, as the case may be, determined under subsection (4) in respect of the insurer for the third 3-month period in the taxation year of the insurer,

E is the positive or negative amount, as the case may be, determined under subsection (4) in respect of the insurer for the fourth 3-month period in the taxation year of the insurer, and

F is the number obtained when the number of calendar months in the taxation year is divided by 3 and, where the number is not a whole number, the number shall be rounded to the next lower whole number.

(3) Where the taxation year of an insurer does not contain one 3-month period, the amount determined under subsection (2) in respect of the insurer shall be deemed to be nil.

(4) The positive or negative amount, as the case may be, determined in respect of an insurer for a particular 3-month period in a taxation year of the insurer shall be determined by the formula

A - B

where

A is the aggregate of all amounts each of which is

(a) an amount of a premium received by the insurer in the period in respect of a contract of insurance or an annuity entered into in the course of carrying on its insurance businesses in Canada,

(b) an amount received by the insurer in the period in respect of interest on or a repayment in respect of a policy loan made under a life insurance policy in Canada, or

(c) an amount received by the insurer in the period in respect of reinsurance (other than reinsurance undertaken to effect a transfer of a business to which subsection 138(11.5), (11.11) or (11.13) of the Act applied) arising in the course of carrying on its insurance businesses in Canada and not otherwise included in paragraph (a), and

B is the aggregate of all amounts each of which is

(a) an amount of a claim or benefit (including a payment under an annuity or settlement annuity and an amount paid on a lapsed or terminated policy) paid by the insurer in the period under a contract of insurance or an annuity in the course of carrying on its insurance businesses in Canada,

(b) an amount of a policy loan made by the insurer in the period under a life insurance policy in Canada,

(c) a premium paid by the insurer in the period in respect of a contract of insurance or an annuity in the course of carrying on its insurance businesses in Canada, or

(d) an amount paid by the insurer in the period in respect of reinsurance (other than reinsurance undertaken to effect a transfer of a business to which subsection 138(11.5), (11.11) or (11.13) of the Act applied) in the course of carrying on its insurance businesses in Canada and not otherwise included in paragraph (a) or (c).

(5) For the purposes of this section,

"mean Canadian investment fund for the year",

(a) for a taxation year in respect of a life insurer resident in Canada, means 1/2 of the aggregate of

(i) its Canadian investment fund as at the end of the year, and

(ii) its Canadian investment fund as at the end of the immediately preceding taxation year; and

(b) for a taxation year in respect of a non-resident insurer, means 1/2 of the aggregate of

(i) its Canadian investment fund as at the end of the year, and

(ii) the amount that would be its Canadian investment fund as at the end of the immediately preceding taxation year if the insurer's attributed surplus for the year for that preceding year were its attributed surplus for the year for that taxation year."

9.(1) Sections 1, 3, 4, 5, 7 and 8 are applicable to taxation years commencing after June 17, 1987 that end after 1987.

(2) Section 2 is applicable to the 1987 and subsequent taxation years except that, in applying paragraph 1400(e) of the said Regulations as enacted by section 2 to taxation years ending before the first taxation year that commences after June 17, 1987 and ends after 1987, paragraph 1400(e) shall be read as follows:

"(e) a policy where an event has occurred before the end of the year that has given or is likely to give rise to a claim under the policy (in this paragraph referred to as "the liability"), such amount as the corporation may claim not exceeding the lesser of

(i) a reasonable amount in respect of the liability as at the end of the year, and

(ii) the amount of the reserve in respect of the liability reported by the corporation to the relevant authority in its annual report for the year or, where the corporation was throughout the year subject to the supervision of the relevant authority but was not required to file an annual report with the relevant authority for the year, in its financial statements for the year;"

(3) Section 6 is applicable to taxation years commencing after June 17, 1987 that end after 1987 except that

(a) the amendment to the definition "Canadian reserve liabilities" in subsection 2405(3) of the said Regulations, as enacted by subsection 6(1), is applicable to the 1987 and subsequent taxation years, and

(b) the amendment to subparagraph (b)(iii) of the definition "Canadian investment fund" in subsection 2405(3) of the said Regulations, as enacted by subsection 6(4), is applicable to the 1987 and subsequent taxation years.

Appendix IV

Draft Income Tax Regulations: Motor Vehicles

Appendix IV

Draft Income Tax Regulations -
Motor Vehicles

1. Paragraph 1100(1)(a) of the Income Tax Regulations is amended by adding thereto, immediately after subparagraph (x) thereof, the following subparagraph:

> "(x.1) of Class 10.1, 30 per cent,"

2. Section 1101 of the said Regulations is amended by adding thereto, immediately after subsection (1ae) thereof, the following subsection:

> "(1af) A separate class is hereby prescribed for each motor vehicle included in Class 10.1 in Schedule II."

3. The said Regulations are further amended by adding thereto, immediately after section 7304 thereof, the following section:

> "7305. For the purposes of subsection 8(11) and paragraph 18(1)(r) of the Act, the "amount determined in accordance with prescribed rules" in respect of the use of one or more automobiles in a calendar year by an individual is the aggregate of
>
> (a) 27 cents multiplied by the number of kilometres, not in excess of 5,000, driven by the individual in the year,
>
> (b) 21 cents multiplied by the number of kilometres in excess of 5,000 driven by the individual in the year, and
>
> (c) 4 cents multiplied by the number of kilometres driven by the individual in the year in the Yukon Territory and the Northwest Territories,

except that where the amount is determined in lieu of a deduction under paragraph 8(1)(f) of the Act, the aggregate for the year shall not exceed the total of all amounts received in the year by the individual as commissions or other similar amounts fixed by reference to the volume of sales made or contracts negotiated.

4. Schedule II to the said Regulations is amended by adding thereto, immediately after Class 10 therein, the following:

"CLASS 10.1
(30 per cent)

Property that is

(a) a motor vehicle owned by an individual (other than a trust), or

(b) a passenger vehicle owned by any other taxpayer."

5.(1) Sections 1, 2 and 4 are applicable with respect to property held at the end of taxation years and fiscal periods commencing after June 17, 1987 that end after 1987.

(2) Section 3 is applicable after 1987.